

FINANCE ACT, 2003

An Act to give effect to the financial proposals of the Central Government for the financial year 2003-2004

BE it enacted by Parliament in the Fifty-fourth Year of the Republic of India as follows:—

Chapter I

Preliminary

Short title and commencement.

1. (1) This Act may be called the Finance Act, 2003.
- (2) Save as otherwise provided in this Act, sections 2 to 103 [except clause (b) of section 92] shall be deemed to have come into force on the 1st day of April, 2003.

Chapter II

Rates of income-tax

Income-tax.

2. (1) Subject to the provisions of sub-sections (2) and (3), for the assessment year commencing on the 1st day of April, 2003, income-tax shall be charged at the rates specified in Part I of the First Schedule and such tax as reduced by the rebate of income-tax calculated under Chapter VIII-A of the Income-tax Act, 1961 (43 of 1961) (hereinafter referred to as the Income-tax Act) shall be increased by a surcharge for purposes of the Union calculated in each case in the manner provided therein.

(2) In the cases to which Paragraph A of Part I of the First Schedule applies, where the assessee has, in the previous year, any net agricultural income exceeding five thousand rupees, in addition to total income, and the total income exceeds fifty thousand rupees, then,—

(a) the net agricultural income shall be taken into account, in the manner provided in clause (b) [that is to say, as if the net agricultural income were comprised in the total income after the first fifty thousand rupees of the total income but without being liable to tax], only for the purpose of charging income-tax in respect of the total income; and

(b) the income-tax chargeable shall be calculated as follows:—

(i) the total income and the net agricultural income shall be aggregated and the amount of income-tax shall be determined in respect of the aggregate income at the rates specified in the said Paragraph A, as if such aggregate income were the total income;

(ii) the net agricultural income shall be increased by a sum of fifty thousand rupees, and the amount of income-tax shall be determined in respect of the net agricultural income as so increased at the rates specified in the said Paragraph A, as if the net agricultural income as so increased were the total income;

(iii) the amount of income-tax determined in accordance with sub-clause (i) shall be reduced by the amount of income-tax determined in accordance with sub-clause (ii) and the sum so arrived at shall be the income-tax in respect of the total income :

Provided that the amount of income-tax so arrived at, as reduced by the amount of rebate of income-tax calculated under Chapter VIII-A, shall be increased by a surcharge for purposes of the Union calculated in each case in the manner provided in that Paragraph and the sum so arrived at shall be the income-tax in respect of the total income.

(3) In cases to which the provisions of Chapter XII or Chapter XII-A or section 115JB or sub-section (IA) of section 161 or section 164 or section 164A or section 167B of the Income-tax Act apply, the tax chargeable shall be determined as provided in that Chapter or that section, and with reference to the rates imposed by sub-section (I) or the rates as specified in that Chapter or section, as the case may be :

Provided that the amount of income-tax computed in accordance with the provisions of section 112 shall be increased by a surcharge for purposes of the Union as provided in Paragraph A, B, C, D or E, as the case may be, of Part I of the First Schedule :

Provided further that the amount of income-tax computed in accordance with the provisions of section 113 shall be increased by a surcharge for purposes of the Union as provided in Paragraph A, B, C, D or E, as the case may be, of Part III of the First Schedule of the Finance Act of the year in which the search is initiated under section 132 or requisition is made under section 132A of the Income-tax Act :

Provided also that in respect of any income chargeable to tax under sections 115A, 115AB, 115AC, 115ACA, 115AD, 115B, 115BB, 115BBA, 115BBB, 115E and 115JB of the Income-tax Act, the amount of income-tax computed under this sub-section shall be increased by a surcharge for purposes of the Union, calculated at the rate of five per cent of such income-tax.

(4) In cases in which tax has to be charged and paid under section 115-O or sub-section (2) of section 115R of the Income-tax Act, the tax shall be charged and paid at the rate as specified in those sections and shall be increased by a surcharge for purposes of the Union, calculated at the rate of two and one-half per cent of such tax.

(5) In cases in which tax has to be deducted under sections 193, 194, 194A, 194B, 194BB, 194D and 195 of the Income-tax Act, at the rates in force, the deductions shall be made at the rates specified in Part II of the First Schedule and shall be increased, by a surcharge for purposes of the Union, calculated in each case, in the manner provided therein.

(6) In cases in which tax has to be deducted under sections 194C, 194E, 194EE, 194F, 194G, 194H, 194-I, 194J, 196B, 196C and 196D of the Income-tax Act, the deductions shall be made at the rates specified in those sections and shall be increased by a surcharge for purposes of the Union, calculated,—

(a) in the case of every individual, Hindu undivided family, association of persons and body of individuals, whether incorporated or not, at the rate of ten per cent of such tax where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds rupees eight hundred and fifty thousand rupees;

(b) in the case of every co-operative society, firm, local authority and company, at the rate of two and one-half per cent of such tax;

(c) in the case of every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Income-tax Act, at the rate of ten per cent of such tax.

(7) In cases in which tax has to be collected under the proviso to section 194B of the Income-tax Act, the collection shall be made at the rates specified in Part II of the First Schedule, and shall be increased, by a surcharge for purposes of the Union, calculated in the manner provided therein.

(8) In cases in which tax has to be collected under section 206C of the Income-tax Act, the collection shall be made at the rates specified in that section and shall be increased by a surcharge for purposes of the Union, calculated,—

(a) in the case of every individual, Hindu undivided family, association of persons and body of individuals, whether incorporated or not, at the rate of ten per cent of such tax where the amount or the aggregate of such amounts collected and subject to the collection exceeds rupees eight hundred and fifty thousand rupees;

(b) in the case of every co-operative society, firm, local authority and company, at the rate of two and one-half per cent of such tax;

(c) in the case of every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Income-tax Act, at the rate of ten per cent of such tax.

(9) Subject to the provisions of sub-section (10), in cases in which income-tax has to be charged under sub-section (4) of section 172 or sub-section (2) of section 174 or section 174A or section 175 or sub-section (2) of section 176 of the Income-tax Act or deducted from, or paid on, income chargeable under the head “Salaries” under section 192 of the said Act or in which the “advance tax” payable under Chapter XVII-C of the said Act has to be computed at the rate or rates in force, such income-tax or, as the case may be, “advance tax” shall be so charged, deducted or computed at the rate or rates specified in Part III of the First Schedule and such tax as reduced by the rebate of income-tax calculated under Chapter VIII-A of the said Act shall be increased by a surcharge for purposes of the Union, calculated in each case in the manner provided therein :

Provided that in cases to which the provisions of Chapter XII or Chapter XII-A or section 115JB or sub-section (1A) of section 161 or section 164 or section 164A or section 167B of the Income-tax Act apply, “advance tax” shall be computed with reference to the rates imposed by this sub-section or the rates as specified in that Chapter or section, as the case may be:

Provided further that the amount of “advance tax” computed in accordance with the provisions of section 112 of the Income-tax Act shall be increased by a surcharge for purposes of the Union as provided in Paragraph A, B, C, D or E, as the case may be, of Part III of the First Schedule:

Provided also that in respect of any income chargeable to tax under sections 115A, 115AB, 115AC, 115ACA, 115AD, 115B, 115BB, 115BBA, 115E and 115JB of the Income-tax Act, “advance tax” computed under the first proviso shall be increased by a surcharge for purposes of the Union, calculated,—

(a) in the case of every individual, Hindu undivided family, association of persons and body of individuals, whether incorporated or not, at the rate of ten per cent of “advance tax” where the total income exceeds eight hundred and fifty thousand rupees;

(b) in the case of every co-operative society, firm, local authority and company, at the rate of two and one-half per cent of such “advance tax”;

(c) in the case of every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Income-tax Act, at the rate of ten per cent of such “advance tax”.

(10) In cases to which, Paragraph A of Part III of the First Schedule applies, where the assessee has, in the previous year or, if by virtue of any provision of the Income-tax Act, income-tax is to be charged in respect of the income of a period other than the previous year, in such other period, any net agricultural income exceeding five thousand rupees, in addition to total income and the total income exceeds fifty thousand rupees, then, in charging income-tax under sub-section (2) of section 174 or section 174A or section 175 or sub-section (2) of section 176 of the said Act or in computing the “advance tax” payable under Chapter XVII-C of the said Act, at the rate or rates in force,—

(a) the net agricultural income shall be taken into account, in the manner provided in clause (b) [that is to say, as if the net agricultural income were comprised in the total income after the first fifty thousand rupees of the total income but without being liable to tax], only for the purpose of charging or computing such income-tax or, as the case may be, “advance tax” in respect of the total income; and

(b) such income-tax or, as the case may be, “advance tax” shall be so charged or computed as follows:—

(i) the total income and the net agricultural income shall be aggregated and the amount of income-tax or “advance tax” shall be determined in respect of the aggregate income at the rates specified in the said Paragraph A, as if such aggregate income were the total income;

(ii) the net agricultural income shall be increased by a sum of fifty thousand rupees, and the amount of income-tax or “advance tax” shall be determined in respect of the net agricultural income as so increased at the rates specified in the said Paragraph A, as if the net agricultural income were the total income;

(iii) the amount of income-tax or “advance tax” determined in accordance with sub-clause (i) shall be reduced by the amount of income-tax or, as the case may be, “advance tax” determined in accordance with sub-clause (ii) and the sum so arrived at shall be the income-tax or, as the case may be, “advance tax” in respect of the total income :

Provided that the amount of income-tax or “advance tax” so arrived at, as reduced by the rebate of income-tax calculated under Chapter VIII-A of the said Act, shall be increased by a surcharge for purposes of the Union calculated in each case, in the manner provided therein.

(11) For the purposes of this section and the First Schedule,—

(a) “domestic company” means an Indian company or any other company which, in respect of its income liable to income-tax under the Income-tax Act for the assessment year commencing on the 1st day of April, 2003, has made the prescribed arrangements for the declaration and payment within India of the dividends (including dividends on preference shares) payable out of such income;

(b) “insurance commission” means any remuneration or reward, whether by way of commission or otherwise, for soliciting or procuring insurance business (including business relating to the continuance, renewal or revival of policies of insurance);

(c) “net agricultural income”, in relation to a person, means the total amount of agricultural income, from whatever source derived, of that person computed in accordance with the rules contained in Part IV of the First Schedule;

(d) all other words and expressions used in this section and the First Schedule but not defined in this sub-section and defined in the Income-tax Act shall have the meanings respectively assigned to them in that Act.

Chapter III

Direct Taxes

Income-tax

Amendment of section 2.

3. In section 2 of the Income-tax Act,—

(a) in clause (24), in sub-clause (xii), for the word, brackets and figures “clause (vii)”, the word, brackets, figure and letter “clause (va)” shall be substituted;

(b) in clause (42A), in *Explanation 1*, in clause (i), after sub-clause (g), the following sub-clauses shall be inserted with effect from the 1st day of April, 2004, namely:—

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

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

Amendment of section 6.

4. In section 6 of the Income-tax Act, for clause (6), the following clause shall be substituted with effect from the 1st day of April, 2004, namely:—

‘(6) A person is said to be “not ordinarily resident” in India in any previous year if such person is—

(a) an individual who has been a non-resident in India in nine out of the ten previous years preceding that year, or has during the seven previous years preceding that year been in India for a period of, or periods amounting in all to, seven hundred and twenty-nine days or less; or

(b) a Hindu undivided family whose manager has been a non-resident in India in nine out of the ten previous years preceding that year, or has during the seven previous years preceding that year been in India for a period of, or periods amounting in all to, seven hundred and twenty-nine days or less.’.

Amendment of section 10.

6. In section 10 of the Income-tax Act,—

(a) in clause (6C), for the words “by way of fees”, the words “by way of royalty or fees” shall be substituted with effect from the 1st day of April, 2004;

(b) in clause (10C), with effect from the 1st day of April, 2004,—

(i) in the opening portion, for the words “any amount received by an employee of”, the words “any amount received or receivable by an employee of” shall be substituted;

(ii) for the words “at the time of his voluntary retirement”, the words “on his voluntary retirement” shall be substituted;

(c) for clause (10D), the following shall be substituted with effect from the 1st day of April, 2004, namely :—

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

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

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

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

Provided that the provisions of this sub-clause shall not apply to any sum received on the death of a person:

Provided further that for the purpose of calculating the actual capital sum assured under this sub-clause, effect shall be given to the *Explanation* to sub-section (2A) of section 88.

Explanation.—For the purposes of this clause, “Keyman insurance policy” means a life insurance policy taken by a person on the life of another person who is or was the employee of the first-mentioned person or is or was connected in any manner whatsoever with the business of the first-mentioned person;’;

(d) in clause (15), in sub-clause (iv), in item (g), for the words “a loan agreement approved by the Central Government”, the words, figures and letters “a loan agreement approved by the Central Government before the 1st day of June, 2003” shall be substituted with effect from the 1st day of April, 2004;

(e) in clause (23BBD), for the words, figures and letters “three previous years relevant to the assessment years beginning on the 1st day of April, 2001 and ending on the 31st day of March, 2004”, the words, figures and letters “seven previous years relevant to the assessment years beginning on the 1st day of April, 2001 and ending on the 31st day of March, 2008” shall be substituted with effect from the 1st day of April, 2004;

(f) in clause (23C), in the ninth proviso, for the figures “2003”, the figures “2004” shall be substituted and shall be deemed to have been substituted with effect from the 3rd day of February, 2001;

(g) in clause (23D), in the opening portion, for the words “any income of”, the words, figures and letter “subject to the provisions of Chapter XII-E, any income of” shall be substituted with effect from the 1st day of April, 2004;

(h) in clause (23EB), for the words “Credit Guarantee Fund Trust for Small Scale Industries”, the words “Credit Guarantee Fund Trust for Small Industries” shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 2002;

(i) in clause (23FA), for the word “dividends”, the words, figures and letter “dividends, other than dividends referred to in section 115-O” shall be substituted with effect from the 1st day of April, 2004;

(j) in clause (23G),—

(i) for the word “dividends”, the words, figures and letter “dividends, other than dividends referred to in section 115-O” shall be substituted with effect from the 1st day of April, 2004;

(ii) after the words, brackets, figures and letters “housing project referred to in sub-section (10) of section 80-IB”, the words “or a hotel project or a hospital project” shall be inserted with effect from the 1st day of April, 2004;

(iii) in *Explanation 1*,—

(A) in clause (a), for the portion beginning with the words “in the business of” and ending with the words “any infrastructure facility”, the words “in the business referred to in this clause” shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 2002;

(B) in clause (b), for the portion beginning with the words “in the business of” and ending with the words “any infrastructure facility”, the words “in the business referred to in this clause” shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 2002;

(C) After clause (f), the following clauses shall be inserted with effect from the 1st day of April, 2004, namely :—

‘(g) “hotel project” means a project for constructing a hotel of not less than three-star category as classified by the Central Government;

(h) “hospital project” means a project for constructing a hospital with at least one hundred beds for patients.’;

(k) after clause (26BB), the following shall be inserted with effect from the 1st day of April, 2004, namely :—

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

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

(l) after clause (32), the following clause shall be inserted, namely :—

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

(m) after clause (33) as so inserted, the following clauses shall be inserted with effect from the 1st day of April, 2004, namely :—

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

(35) any income by way of,—

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

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

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

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

Explanation.—For the purposes of this clause,—

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

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

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

Explanation.—For the purposes of this clause, “eligible equity share” means,—

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

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

Amendment of section 10A.

7. In section 10A of the Income-tax Act,—

(a) for sub-section (1A), the following sub-sections shall be substituted with effect from the 1st day of April, 2004, namely:—

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

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

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

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

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

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

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

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

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

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

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

shall be deemed to be the profits,—

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

(ii) in a case referred to in clause (b), in the year immediately following the period of three years specified in sub-clause (i) of clause (a) of sub-section (1B),

and shall be charged to tax accordingly.”;

(b) in sub-section (4), for the word, brackets and figure “sub-section (1)”, the words, brackets, figures and letter “sub-sections (1) and (1A)” shall be substituted;

(c) in sub-section (5), for the word, brackets and figure “sub-section (1)”, the words “this section” shall be substituted;

(d) in sub-section (6),—

(A) in clause (i), after the words “relevant assessment years”, the words, figures and letters “ending before the 1st day of April, 2001” shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 2001;

(B) in clause (ii) after the words “relevant assessment years”, the words, figures and letters “ending before the 1st day of April, 2001”, shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 2001;

(e) after sub-section (7), the following sub-section shall be inserted with effect from the 1st day of April, 2004, namely :—

“(7A) Where any undertaking of an Indian company which is entitled to the deduction under this section is transferred, before the expiry of the period specified in this section, to another Indian company in a scheme of amalgamation or demerger,—

(a) no deduction shall be admissible under this section to the amalgamating or the demerged company for the previous year in which the amalgamation or the demerger takes place; and

(b) the provisions of this section shall, as far as may be, apply to the amalgamated or the resulting company as they would have applied to the amalgamating or the demerged company if the amalgamation or demerger had not taken place.”

(f) sub-sections (9) and (9A) shall be omitted with effect from the 1st day of April, 2004;

(g) *Explanation 1* shall be omitted with effect from the 1st day of April, 2004;

(h) after *Explanation 3*, the following *Explanation* shall be inserted at the end with effect from the 1st day of April, 2004, namely :—

‘*Explanation 4.*—For the purposes of this section, “manufacture or produce” shall include the cutting and polishing of precious and semi-precious stones.’.

Amendment of section 9.

5. In section 9 of the Income-tax Act, in sub-section (1), in clause (i), the existing *Explanation* shall be numbered as *Explanation 1* thereof and after *Explanation 1* as so numbered, the following *Explanations* shall be inserted with effect from the 1st day of April, 2004, namely:—

‘*Explanation 2.*—For the removal of doubts, it is hereby declared that “business connection” shall include any business activity carried out through a person who, acting on behalf of the non-resident,—

(a) has and habitually exercises in India, an authority to conclude contracts on behalf of the non-resident, unless his activities are limited to the purchase of goods or merchandise for the non-resident; or

(b) has no such authority, but habitually maintains in India a stock of goods or merchandise from which he regularly delivers goods or merchandise on behalf of the non-resident; or

(c) habitually secures orders in India, mainly or wholly for the non-resident or for that non-resident and other non-residents controlling, controlled by, or subject to the same common control, as that non-resident:

Provided that such business connection shall not include any business activity carried out through a broker, general commission agent or any other agent having an independent status, if such broker, general commission agent or any other agent having an independent status is acting in the ordinary course of his business :

Provided further that where such broker, general commission agent or any other agent works mainly or wholly on behalf of a non-resident (hereafter in this proviso referred to as the principal non-resident) or on behalf of such non-resident and other non-residents which are controlled by the principal non-resident or have a controlling interest in the principal non-resident or are subject to the same common control as the principal non-resident, he shall not be deemed to be a broker, general commission agent or an agent of an independent status.

Explanation 3.— *Where a business is carried on in India through a person referred to in clause (a) or clause (b) or clause (c) of Explanation 2, only so much of income as is attributable to the operations carried out in India shall be deemed to accrue or arise in India.*

Amendment of section 10B.

8. In section 10B of the Income-tax Act,—

(a) in sub-section (6) with effect from the 1st day of April, 2001,—

(A) in clause (i), after the words “relevant assessment years”, the words, figures and letters “ending before the 1st day of April, 2001” shall be inserted and shall be deemed to have been inserted;

(B) in clause (ii), after the words “relevant assessment years”, the words, figures and letters “ending before the 1st day of April, 2001” shall be inserted and shall be deemed to have been inserted;

(b) after sub-section (7), the following sub-section shall be inserted with effect from the 1st day of April, 2004, namely :—

“(7A) Where any undertaking of an Indian company which is entitled to the deduction under this section is transferred, before the expiry of the period specified in this section, to another Indian company in a scheme of amalgamation or demerger—

(a) no deduction shall be admissible under this section to the amalgamating or the demerged company for the previous year in which the amalgamation or the demerger takes place; and

(b) the provisions of this section shall, as far as may be, apply to the amalgamated or resulting company as they would have applied to the amalgamating or the demerged company if the amalgamation or the demerger had not taken place.”;

(c) sub-sections (9) and (9A) shall be omitted with effect from the 1st day of April, 2004;

(d) Explanation 1 shall be omitted with effect from the 1st day of April, 2004;

(e) after Explanation 3, the following Explanation shall be inserted at the end, with effect from the 1st day of April, 2004, namely :—

‘Explanation 4.—For the purposes of this section, “manufacture or produce” shall include the cutting and polishing of precious and semi-precious stones.’

Amendment of section 11.

10. In section 11 of the Income-tax Act, in sub-section (3A), after the proviso, the following proviso shall be inserted, namely :—

“**Provided further** that in case the trust or institution, which has invested or deposited its income in accordance with the provisions of clause (b) of sub-section (2), is dissolved, the Assessing Officer may allow application of such income for the purposes referred to in clause (d) of sub-section (3) in the year in which such trust or institution was dissolved.”.

Amendment of section 12.

11. In section 12 of the Income-tax Act, in sub-section (3), for the figures “2003”, the figures “2004”, shall be substituted and shall be deemed to have been substituted with effect from the 3rd day of February, 2001.

Amendment of section 10C.

9. In section 10C of the Income-tax Act, after sub-section (6) and before the *Explanation*, the following proviso shall be inserted with effect from the 1st day of April, 2004, namely :—

“**Provided** that no deduction under this section shall be allowed to any undertaking for the assessment year beginning on the 1st day of April, 2004 and subsequent years.”.

Amendment of section 13A.

12. In section 13A of the Income-tax Act, after the words “Income from other sources or” the words “Capital gains or” shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1979.

Amendment of section 16.

13. In section 16 of the Income-tax Act, for clause (i), the following clause shall be substituted with effect from the 1st day of April, 2004, namely :—

“(i) in the case of an assessee whose income from salary, before allowing a deduction under this clause,—

(A) does not exceed five lakh rupees, a deduction of a sum equal to forty per cent of the salary or thirty thousand rupees, whichever is less;

(B) exceeds five lakh rupees, a deduction of a sum of twenty thousand rupees;”.

Amendment of section 30.

14. In section 30 of the Income-tax Act, after clause (c), the following *Explanation* shall be inserted with effect from the 1st day of April, 2004, namely :—

“*Explanation.*—For the removal of doubts, it is hereby declared that the amount paid on account of the cost of repairs referred to in sub-clause (i), and the amount paid on account of current repairs referred to in sub-clause (ii), of clause (a), shall not include any expenditure in the nature of capital expenditure.”.

Amendment of section 31.

15. In section 31 of the Income-tax Act, after clause (ii), the following *Explanation* shall be inserted with effect from the 1st day of April, 2004, namely :—

“*Explanation.*—For the removal of doubts, it is hereby declared that the amount paid on account of current repairs shall not include any expenditure in the nature of capital expenditure.”.

Amendment of section 33AC.

17. In section 33AC of the Income-tax Act, with effect from the 1st day of April, 2004,—

(a) in sub-section (3), in clause (c), for the words “eight years”, the words “three years” shall be substituted;

(b) after sub-section (3) and before the Explanation, the following sub-section shall be inserted, namely:—

“(4) Where the ship is sold or otherwise transferred (other than in any scheme of demerger) after the expiry of the period specified in clause (c) of sub-section (3) and the sale proceeds are not utilised for the purpose of acquiring a new ship within a period of one year from the end of the previous year in which such sale or transfer took place, such sale proceeds shall be deemed to be the profits of the assessment year immediately following the previous year in which the ship is sold or transferred.”.

Amendment of section 33AB.

16. In section 33AB of the Income-tax Act, with effect from the 1st day of April, 2004,—

(a) in the marginal heading, after the word “account”, the words “, coffee development account and rubber development account” shall be inserted;

(b) for the words “Tea Deposit Account”, wherever they occur, the words “Deposit Account” shall be substituted;

(c) in sub-section (1),—

(i) in the opening portion,—

(A) for the words “growing and manufacturing tea”, the words “growing and manufacturing tea or coffee or rubber” shall be substituted;

(B) for the words “furnishing the return of his income”, the words “the due date of furnishing the return of his income” shall be substituted;

(ii) in clause (a), for the words “approved in this behalf by the Tea Board”, the words “approved in this behalf by the Tea Board or the Coffee Board or the Rubber Board” shall be substituted;

(iii) in clause (b), for the portion beginning with the words “deposited any amount” and ending with the words “approval of the Central Government,”, the following shall be substituted, namely :—

“deposited any amount in an account (hereafter in this section referred to as the Deposit Account) opened by the assessee in accordance with, and for the purposes specified in, a scheme framed by the Tea Board or the Coffee Board or the Rubber Board, as the case may be (hereafter in this section referred to as the deposit scheme), with the previous approval of the Central Government,”;

(d) for sub-section (4) the following sub-section shall be substituted, namely:—

(4) Notwithstanding anything contained in sub-section (3) where any amount standing to the credit of the assessee in the special account or in the Deposit Account is released during any previous year by the National Bank or withdrawn by the assessee from the Deposit Account and such amount is utilised for the purchase of—

(a) any machinery or plant to be installed in any office premises or residential accommodation, including any accommodation in the nature of a guest-house;

(b) any office appliances (not being computers);

(c) any machinery or plant, the whole of the actual cost of which is allowed as a deduction (whether by way of depreciation or otherwise) in computing the income chargeable under the head “Profits and gains of business or profession” of any one previous year;

(d) any new machinery or plant to be installed in an industrial undertaking for the purposes of business of construction, manufacture or production of any article or thing specified in the list in the Eleventh Schedule,

the whole of such amount so utilised shall be deemed to be the profits and gains of business of that previous year and shall accordingly be chargeable to income-tax as the income of that previous year.’;

(e) in the *Explanation* occurring at the end, for clause (a), the following clauses shall be substituted, namely :—

‘(a) “Coffee Board” means the Coffee Board constituted under section 4 of the Coffee Act, 1942 (7 of 1942);

(aa) “National Bank” means the National Bank for Agriculture and Rural Development established under section 3 of the National Bank for Agriculture and Rural Development Act, 1981 (61 of 1981);

(ab) “Rubber Board” means the Rubber Board constituted under sub-section (1) of section 4 of the Rubber Board Act, 1947 (24 of 1947).’.

Amendment of section 36.

18. In section 36 of the Income-tax Act, in sub-section (1),—

(a) in clause (iii) and before the *Explanation*, the following proviso shall be inserted with effect from the 1st day of April, 2004, namely :—

“**Provided** that any amount of the interest paid, in respect of capital borrowed for acquisition of an asset for extension of existing business or profession (whether capitalised in the books of account or not); for any period beginning from the date on which the capital was borrowed for acquisition of the asset till the date on which such asset was first put to use, shall not be allowed as deduction.”;

(b) in clause (viiia), in sub-clause (a), after the second proviso and before the *Explanation*, the following provisos shall be inserted with effect from the 1st day of April, 2004, namely :—

“**Provided also** that a scheduled bank or a non-scheduled bank referred to in this sub-clause shall, at its option, be allowed a further deduction in excess of the limits specified in the foregoing provisions, for an amount not exceeding the income derived from redemption of securities in accordance with a scheme framed by the Central Government:

Provided also that no deduction shall be allowed under the third proviso unless such income has been disclosed in the return of income under the head “Profits and gains of business or profession”;

(c) in clause (x), for the words, brackets, figures and letter “any fund specified under clause (23E) of section 10”, the words “any Exchange Risk Administration Fund set up by public financial institutions, either jointly or separately” shall be substituted;

(d) after the *Explanation* below clause (xi), the following clause shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 2002, namely:—

“(xii) any expenditure (not being in the nature of capital expenditure) incurred by a corporation or a body corporate, by whatever name called, constituted or established by a Central, State or Provincial Act for the objects and purposes authorised by the Act under which such corporation or body corporate was constituted or established.”.

Amendment of section 43.

20. In section 43 of the Income-tax Act, with effect from the 1st day of April, 2004,—

(a) in clause (3), after the words “but does not include tea bushes or livestock”, the words “or buildings or furniture and fittings” shall be inserted;

(b) in clause (6), in *Explanation 2B*, the words “as appearing in the books of account” shall be omitted.

Amendment of section 40.

19. In section 40 of the Income-tax Act, in clause (a), with effect from the 1st day of April, 2004,—

(a) for sub-clause (i), the following sub-clause shall be substituted, namely:—

‘(i) any interest (not being interest on a loan issued for public subscription before the 1st day of April, 1938), royalty, fees for technical services or other sum chargeable under this Act, which is payable,—

(A) outside India; or

(B) in India to a non-resident, not being a company or to a foreign company,

on which tax has not been deducted or, after deduction, has not been paid before the expiry of the time prescribed under sub-section (1) of section 200 and in accordance with other provisions of Chapter XVII-B:

Provided that where in respect of any such sum, tax has been deducted under Chapter XVII-B or paid in any subsequent year, such sum shall be allowed as a deduction in computing the income of the previous year in which such tax has been paid.

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

(A) “royalty” shall have the same meaning as in *Explanation 2* to clause (vi) of sub-section (1) of section 9;

(B) “fees for technical services” shall have the same meaning as in *Explanation 2* to clause (vii) of sub-section (1) of section 9;’;

(b) for sub-clause (iii), the following sub-clause shall be substituted, namely:—

‘(iii) any payment which is chargeable under the head “Salaries”, if it is payable—

(A) outside India; or

(B) to a non-resident,

and if the tax has not been paid thereon nor deducted therefrom under Chapter XVII-B;’.

Amendment of section 43B.

21. In section 43B of the Income-tax Act, with effect from the 1st day of April, 2004,—

- (a) in clause (e),—
 - (i) for the words “term loan”, the words “loan or advances” shall be substituted;
 - (ii) for the words “such loan”, the words “such loan or advances” shall be substituted;
- (b) in the first proviso, the words, brackets and letters “referred to in clause (a) or clause (c) or clause (d) or clause (e) or clause (f)” shall be omitted;
- (c) the second proviso shall be omitted.

Amendment of section 44AE.

24. In section 44AE of the Income-tax Act, in sub-section (1), after the words “who owns not more than ten goods carriages”, the words “at any time during the previous year” shall be inserted with effect from the 1st day of April, 2004.

Chapter VII

Miscellaneous

Insertion of new sections 46B and 46C in Act 13 of 1989.

166. After section 46A of the Finance Act, 1989, the following sections shall be inserted, namely:—

‘46B. Penalty for failure to pay inland air travel tax to credit of Central Government.—If any carrier fails to pay to the credit of the Central Government, the inland air travel tax collected by him as required under the provisions of section 42, he shall be punishable with rigorous imprisonment for a term which shall not be less than three months but which may extend to seven years and with fine.

46C. Offences by companies.—(1) Where any offence under section 46B has been committed by a company, every person who, at the time the offence was committed, was directly in charge of, and was responsible to, the company for the conduct of the business of the company, as well as

the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in the said section, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under section 46B has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any negligence on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

(b) “director”, in relation to a firm, means a partner in the firm.’.

Amendment of Second Schedule to Act 21 of 1998

167. In the Finance (No. 2) Act, 1998, in the Second Schedule, for the entry in column (3), the entry “One rupee and fifty paise per litre” shall be substituted.

Amendment of Second Schedule to Act 27 of 1999

168. In the Finance Act, 1999, in the Second Schedule, for the entry in column (3), the entry “One rupee and fifty paise per litre” shall be substituted.

Amendment of Seventh Schedule to Act 14 of 2001

169. In the Finance Act, 2001, the Seventh Schedule shall be amended in the manner specified in the Thirteenth Schedule and the amendment so made shall cease to have effect on the 1st day of March, 2004, except as respects things done or omitted to be done before such cesser of operation, and section 6 of the General Clauses Act, 1897 (10 of 1897) shall apply upon such cesser of operation as if the amendment so made had then been repealed by a Central Act.

THE FIRST SCHEDULE

(See section 2)

Part I

INCOME-TAX

Paragraph A

In the case of every individual or Hindu undivided family or association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Income-tax Act, not being a case to which any other Paragraph of this Part applies,—

Rates of income-tax

- | | |
|---|--|
| (1) where the total income does not exceed Rs. 50,000 | <i>Nil</i> ; |
| (2) where the total income exceeds Rs. 50,000 but does not exceed Rs. 60,000 | 10 per cent of the amount by which the total income exceeds Rs. 50,000; |
| (3) where the total income exceeds Rs 60,000 but does not exceed Rs. 1,50,000 | Rs. 1,000 <i>plus</i> 20 per cent of the amount by which the total income exceeds Rs. 60,000; |
| (4) where the total income exceeds Rs. 1,50,000 | Rs. 19,000 <i>plus</i> 30 per cent of the amount by which the total income exceeds Rs. 1,50,000. |

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or in section 112, or section 113, shall,—

- (i) in the case of every individual or Hindu undivided family, or association of persons or body of individuals having a total income exceeding sixty thousand rupees, be reduced by the amount of rebate of income-tax calculated under Chapter VIII-A, and the income-tax as so reduced, be increased by a surcharge for purposes of the Union calculated at the rate of five per cent of such income-tax;
- (ii) in the case of every person other than those mentioned in item (i), be increased by a surcharge for purposes of the Union calculated at the rate of five per cent of such income-tax:

Provided that in case of persons mentioned in item (i) above having a total income exceeding sixty thousand rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax on a total income of sixty thousand rupees by more than the amount of income that exceeds sixty thousand rupees.

Paragraph B

In the case of every co-operative society,—

Rates of income-tax

- | | |
|--|---|
| (1) where the total income does not exceed Rs. 10,000 | 10 per cent of the total income; |
| (2) where the total income exceeds Rs. 10,000 but does not exceed Rs. 20,000 | Rs. 1,000 <i>plus</i> 20 per cent of the amount by which the total income exceeds Rs. 10,000; |
| (3) where the total income exceeds Rs. 20,000 | Rs. 3,000 <i>plus</i> 30 per cent of the amount by which the total income exceeds Rs. 20,000. |

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or in section 112, or section 113, shall, in the case of every co-operative society, be increased by a surcharge for purposes of the Union calculated at the rate of five per cent of such income-tax.

Paragraph C

In the case of every firm,—

Rate of income-tax

On the whole of the total income 35 per cent.

Surcharge on income-tax

The amount of income-tax computed at the rate hereinbefore specified, or in section 112 or section 113, shall, in the case of every firm, be increased by a surcharge for purposes of the Union calculated at the rate of five per cent of such income-tax.

Paragraph D

In the case of every local authority,—

Rate of income-tax

On the whole of the total income 30 per cent.

Surcharge on income-tax

The amount of income-tax computed at the rate hereinbefore specified, or in section 112 or section 113, shall, in the case of every local authority, be increased by a surcharge for purposes of the Union calculated at the rate of five per cent of such income-tax.

Paragraph E

In the case of a company,—

Rates of income-tax

- | | |
|---|----------------------------------|
| I. In the case of a domestic company | 35 per cent of the total income; |
| II. In the case of a company other than a domestic company— | |
| (i) on so much of the total income as consists of,— | |
| (a) royalties received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 31st day of March, 1961 but before the 1st day of April, 1976, or | |
| (b) fees for rendering technical services received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 29th day of February, 1964 but before the 1st day of April, 1976, | |
| and where such agreement has, in either case, been approved by the Central Government | 50 per cent; |
| (ii) on the balance, if any, of the total income | 40 per cent. |

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or in section 112 or section 113, shall, in the case of every company, be increased by a surcharge for purposes of the Union calculated at the rate of five per cent of such income-tax.

Part II

RATES FOR DEDUCTION OF TAX AT SOURCE IN CERTAIN CASES

In every case in which under the provisions of sections 193, 194, 194A, 194B, 194BB, 194D and 195 of the Income-tax Act, tax is to be deducted at the rates in force, deduction shall be made from the income subject to the deduction at the following rates :—

	<i>Rate of income-tax</i>
1. In the case of a person other than a company—	
(a) where the person is resident in India—	
(i) on income by way of interest other than "Interest on securities"	10 per cent;
(ii) on income by way of winnings from lotteries, crossword puzzles, card games and other games of any sort	30 per cent;

(iii) on income by way of winnings from horse races	30 per cent;
(iv) on income by way of insurance commission	10 per cent;
(v) on income by way of interest payable on—	10 per cent;
(A) any debentures or securities other than a security of the Central or State Government for money issued by or on behalf of any local authority or a corporation established by a Central, State or Provincial Act;	
(B) any debentures issued by a company where such debentures are listed on a recognised stock exchange in India in accordance with the Securities Contracts (Regulation) Act, 1956 (42 of 1956) and any rules made thereunder	
(vi) on any other income	20 per cent;
(b) where the person is not resident in India—	
(i) in the case of a non-resident Indian—	
(A) on any investment income	20 per cent;
(B) on income by way of long-term capital gains referred to in section 115E	10 per cent;
(C) on other income by way of long-term capital gains [not being long-term capital gains referred to in clauses (33) and (36) of section 10]	20 per cent;
(D) on income by way of interest payable by Government or an Indian concern on moneys borrowed or debt incurred by Government or the Indian concern in foreign currency	20 per cent;
(E) on income by way of winnings from lotteries, crossword puzzles, card games and other games of any sort	30 per cent;
(F) on income by way of winnings from horse races	30 per cent;
(G) on the whole of the other income	30 per cent;
(ii) in the case of any other person—	
(A) on income by way of interest payable by Government or an Indian concern on moneys borrowed or debt incurred by Government or the Indian concern in foreign currency	20 per cent;
(B) on income by way of winnings from lotteries, crossword puzzles, card games and other games of any sort	30 per cent;
(C) on income by way of winnings from horse races	30 per cent;
(D) on income by way of long-term capital gains [not being long-term capital gains referred to in clauses (33) and (36) of section 10]	20 per cent;
(E) on the whole of the other income	30 per cent.

2. In the case of a company—
- (a) where the company is a domestic company—
- (i) on income by way of interest other than "Interest on securities" 20 per cent;
 - (ii) on income by way of winnings from lotteries, cross- word puzzles, card games and other games of any sort 30 per cent;
 - (iii) on income by way of winnings from horse races 30 per cent;
 - (iv) on any other income 20 per cent;
- (b) where the company is not a domestic company—
- (i) on income by way of winnings from lotteries, crossword puzzles, card games and other games of any sort 30 per cent;
 - (ii) on income by way of winnings from horse races 30 per cent;
 - (iii) on income by way of interest payable by Government or an Indian concern on moneys borrowed or debt incurred by Government or the Indian concern in foreign currency 20 per cent;
 - (iv) on income by way of royalty payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 31st day of March, 1976, where such royalty is in consideration for the transfer of all or any rights (including the granting of a licence) in respect of copyright in any book on a subject referred to in the first proviso to sub-section (1A) of section 115A of the Income-tax Act, to the Indian concern, or in respect of any computer software referred to in the second proviso to sub-section (1A) of section 115A of the Income-tax Act, to a person resident in India—
 - (A) where the agreement is made before the 1st day of June, 1997 30 per cent;
 - (B) where the agreement is made on or after the 1st day of June, 1997 20 per cent;
 - (v) on income by way of royalty [not being royalty of the nature referred to in sub-item (b)(iv)] payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy—
 - (A) where the agreement is made after the 31st day of March, 1961 but before the 1st day of April, 1976 50 per cent;
 - (B) where the agreement is made after the 31st day of March, 1976 but before the 1st day of June, 1997 30 per cent;

(C) where the agreement is made on or after the 1st day of June, 1997	20 per cent;
(vi) on income by way of fees for technical services payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy—	
(A) where the agreement is made after the 29th day of February, 1964 but before the 1st day of April, 1976	50 per cent;
(B) where the agreement is made after the 31st day of March, 1976 but before the 1st day of June, 1997	30 per cent;
(C) where the agreement is made on or after the 1st day of June, 1997	20 per cent;
(vii) on income by way of long-term capital gains [not being long-term capital gains referred to in clauses (33) and (36) of section 10]	20 per cent;
(viii) on any other income	40 per cent.

Explanation.—For the purpose of item 1(b)(i) of this Part, "investment income" and "non-resident Indian" shall have the meanings assigned to them in Chapter XII-A of the Income-tax Act.

Surcharge on income-tax

The amount of income-tax deducted in accordance with the provisions of—

- (A) item 1 of this Part, shall be increased by a surcharge, for purposes of the Union, calculated,—
- (i) in the case of every individual, Hindu undivided family, association of persons and body of individuals, whether incorporated or not, at the rate of ten per cent of such tax where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds eight hundred and fifty thousand rupees;
 - (ii) in the case of every co-operative society, firm and local authority, at the rate of two and one-half per cent of such tax;
 - (iii) in the case of every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Income-tax Act, at the rate of ten per cent of such tax;
- (B) item 2 of this Part, shall be increased by a surcharge, for purposes of the Union, calculated at the rate of two and one-half per cent of such income-tax.

Part III

RATES FOR CHARGING INCOME-TAX IN CERTAIN CASES, DEDUCTING INCOME-TAX FROM INCOME CHARGEABLE UNDER THE HEAD "SALARIES" AND COMPUTING "ADVANCE TAX"

In cases in which income-tax has to be charged under sub-section (4) of section 172 of the Income-tax Act or sub-section (2) of section 174 or section 174A or section 175 or sub-section (2) of section 176 of the said Act or deducted from, or paid on, from income chargeable under the head "Salaries" under section 192 of the said Act or in which the "advance tax" payable under Chapter XVII-C of the said Act has to be computed at the rate or rates in force, such income-tax or, as the case may be, "advance tax" [not being "advance tax" in respect of any income chargeable to tax under Chapter XII or Chapter XII-A or section 115JB or sub-section (1A) of section 161 or section 164 or section 164A or section 167B of the Income-tax Act at the rates as specified in that Chapter or section or surcharge on such "advance tax" in respect of any income chargeable to tax under section 115A or section 115AB or section 115AC or section 115ACA or section 115AD or section 115B or section 115BB or section 115BBA or section 115E or section 115JB] shall be charged, deducted or computed at the following rate or rates:—

Paragraph A

In the case of every individual or Hindu undivided family or association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Income-tax Act, not being a case to which any other Paragraph of this Part applies,—

Rates of income-tax

- | | |
|--|--|
| (1) where the total income does not exceed Rs. 50,000 | <i>Nil</i> ; |
| (2) where the total income exceeds Rs. 50,000 but does not exceed Rs. 60,000 | 10 per cent of the amount by which the total income exceeds Rs. 50,000; |
| (3) where the total income exceeds Rs. 60,000 but does not exceed Rs. 1,50,000 | Rs. 1,000 <i>plus</i> 20 per cent of the amount by which the total income exceeds Rs. 60,000; |
| (4) where the total income exceeds Rs. 1,50,000 | Rs. 19,000 <i>plus</i> 30 per cent of the amount by which the total income exceeds Rs. 1,50,000. |

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph or in section 112 shall,—

- (i) in the case of every individual or Hindu undivided family or association of persons or body of individuals having a total income exceeding eight hundred and fifty thousand rupees, be reduced by the amount of rebate of income-tax calculated under Chapter VIIIA, and the income-tax as so reduced, be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent of such income-tax;
- (ii) in the case of every person, other than those mentioned in item (i), be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent of such income-tax :

Provided that in case of persons mentioned in item (i) above having a total income exceeding eight hundred and fifty thousand rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax on a total income of eight hundred and fifty thousand rupees by more than the amount of income that exceeds eight hundred and fifty thousand rupees.

Paragraph B

In the case of every co-operative society,—

Rates of income-tax

- | | |
|--|---|
| (1) where the total income does not exceed Rs. 10,000 | 10 per cent of the total income; |
| (2) where the total income exceeds Rs. 10,000 but does not exceed Rs. 20,000 | Rs. 1,000 <i>plus</i> 20 per cent of the amount by which the total income exceeds Rs. 10,000; |
| (3) where the total income exceeds Rs. 20,000 | Rs. 3,000 <i>plus</i> 30 per cent of the amount by which the total income exceeds Rs. 20,000. |

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or in section 112, shall, in the case of every co-operative society, be increased by a surcharge for purposes of the Union calculated at the rate of two and one-half per cent of such income-tax.

Paragraph C

In the case of every firm,—

Rate of income-tax

On the whole of the total income 35 per cent.

Surcharge on income-tax

The amount of income-tax computed at the rate hereinbefore specified, or in section 112, shall, in the case of every firm, be increased by a surcharge for purposes of the Union calculated at the rate of two and one-half per cent of such income-tax.

Paragraph D

In the case of every local authority,—

Rate of income-tax

On the whole of the total income 30 per cent.

Surcharge on income-tax

The amount of income-tax computed at the rate hereinbefore specified, or in section 112, shall, in the case of every local authority, be increased by a surcharge for purposes of the Union calculated at the rate of two and one-half per cent of such income-tax.

Paragraph E

In the case of a company,—

Rates of income-tax

I. In the case of a domestic company 35 per cent of the total income;

II. In the case of a company other than a domestic company—

(i) on so much of the total income as consists of,—

(a) royalties received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 31st day of March, 1961 but before the 1st day of April, 1976; or

(b) fees for rendering technical services received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 29th day of February, 1964 but before the 1st day of April, 1976,

and where such agreement has, in either case, been approved by the Central Government 50 per cent;

(ii) on the balance, if any, of the total income 40 per cent

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or in section 112, shall, in the case of every company, be increased by a surcharge for purposes of the Union calculated at the rate of two and one-half per cent of such income-tax.

Part IV

[See section 2(11)(c)]

RULES FOR COMPUTATION OF NET AGRICULTURAL INCOME

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Rule 1.—Agricultural income of the nature referred to in sub-clause (a) of clause (IA) of section 2 of the Income-tax Act shall be computed as if it were income chargeable to income-tax under that Act under the head "Income from other sources" and the provisions of sections 57 to 59 of that Act shall, so far as may be, apply accordingly :

Provided that sub-section (2) of section 58 shall apply subject to the modification that the reference to section 40A therein shall be construed as not including a reference to sub-sections (3) and (4) of section 40A.

Rule 2.—Agricultural income of the nature referred to in sub-clause (b) or sub-clause (c) of clause (IA) of section 2 of the Income-tax Act [other than income derived from any building required as a dwelling-house by the receiver of the rent or revenue of the cultivator or the receiver of rent-in-kind referred to in the said sub-clause (c)] shall be computed as if it were income chargeable to income-tax under that Act under the head "Profits and gains of business or profession" and the provisions of sections 30, 31, 32, 36, 37, 38, 40, 40A [other than sub-sections (3) and (4) thereof], 41, 43, 43A, 43B and 43C of the Income-tax Act shall, so far as may be, apply accordingly.

Rule 3.—Agricultural income of the nature referred to in sub-clause (c) of clause (IA) of section 2 of the Income-tax Act, being income derived from any building required as a dwelling-house by the receiver of the rent or revenue or the cultivator or the receiver of rent-in-kind referred to in the said sub-clause (c) shall be computed as if it were income chargeable to income-tax under that Act under the head "Income from house property" and the provisions of sections 23 to 27 of that Act shall, so far as may be, apply accordingly.

Rule 4.—Notwithstanding anything contained in any other provisions of these rules, in a case—

- (a) where the assessee derives income from sale of tea grown and manufactured by him in India, such income shall be computed in accordance with rule 8 of the Income-tax Rules, 1962, and sixty per cent of such income shall be regarded as the agricultural income of the assessee;
- (b) where the assessee derives income from sale of centrifuged latex or cenex or latex based crepes (such as pale latex crepe) or brown crepes (such as estate brown crepe, remilled crepe, smoked blanket crepe or flat bark crepe) of technically specified block rubbers manufactured or processed by him from rubber plants grown by him in India, such income shall be computed in accordance with rule 7A of the Income-tax Rules, 1962, and sixty-five per cent of such income shall be regarded as the agricultural income of the assessee;
- (c) where the assessee derives income from sale of coffee grown and manufactured by him in India, such income shall be computed in accordance with rule 7B of the Income-tax Rules, 1962, and sixty per cent or seventy-five per cent, as the case may be, of such income shall be regarded as the agricultural income of the assessee.

Rule 5.—Where the assessee is a member of an association of persons or a body of individuals (other than a Hindu undivided family, a company or a firm) which in the previous year has either no income chargeable to tax under the Income-tax Act or has total income not exceeding the

maximum amount not chargeable to tax in the case of an association of persons or a body of individuals (other than a Hindu undivided family, a company or a firm) but has any agricultural income then, the agricultural income or loss of the association or body shall be computed in accordance with these rules and the share of the assessee in the agricultural income or loss so computed shall be regarded as the agricultural income or loss of the assessee.

Rule 6.—Where the result of the computation for the previous year in respect of any source of agricultural income is a loss, such loss shall be set off against the income of the assessee, if any, for that previous year from any other source of agricultural income:

Provided that where the assessee is a member of an association of persons or a body of individuals and the share of the assessee in the agricultural income of the association or body, as the case may be, is a loss, such loss shall not be set off against any income of the assessee from any other source of agricultural income.

Rule 7.—Any sum payable by the assessee on account of any tax levied by the State Government on the agricultural income shall be deducted in computing the agricultural income.

Rule 8.—(1) Where the assessee has, in the previous year relevant to the assessment year commencing on the 1st day of April, 2003, any agricultural income and the net result of the computation of the agricultural income of the assessee for any one or more of the previous years relevant to the assessment years commencing on the 1st day of April, 1995 or the 1st day of April, 1996 or the 1st day of April, 1997 or the 1st day of April, 1998 or the 1st day of April, 1999 or the 1st day of April, 2000 or the 1st day of April, 2001 or the 1st day of April, 2002, is a loss, then, for the purposes of sub-section (2) of section 2 of this Act,—

- (i) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1995, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1996 or the 1st day of April, 1997 or the 1st day of April, 1998 or the 1st day of April, 1999 or the 1st day of April, 2000 or the 1st day of April, 2001 or the 1st day of April, 2002,
- (ii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1996, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1997 or the 1st day of April, 1998 or the 1st day of April, 1999 or the 1st day of April, 2000 or the 1st day of April, 2001 or the 1st day of April, 2002,
- (iii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1997, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1998 or the 1st day of April, 1999 or the 1st day of April, 2000 or the 1st day of April, 2001 or the 1st day of April, 2002,
- (iv) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1998, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year

commencing on the 1st day of April, 1999 or the 1st day of April, 2000 or the 1st day of April, 2001 or the 1st day of April, 2002,

- (v) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1999, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2000 or the 1st day of April, 2001 or the 1st day of April, 2002,
- (vi) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2000, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2001 or the 1st day of April, 2002,
- (vii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2001, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2002,
- (viii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2002,

shall be set off against the agricultural income of the assessee for the previous year relevant to the assessment year commencing on the 1st day of April, 2003.

(2) Where the assessee has, in the previous year relevant to the assessment year commencing on the 1st day of April, 2004, or, if by virtue of any provision of the Income-tax Act, income-tax is to be charged in respect of the income of a period other than the previous year, in such other period, any agricultural income and the net result of the computation of the agricultural income of the assessee for any one or more of the previous years relevant to the assessment years commencing on the 1st day of April, 1996 or the 1st day of April, 1997 or the 1st day of April, 1998 or the 1st day of April, 1999 or the 1st day of April, 2000 or the 1st day of April, 2001 or the 1st day of April, 2002 or the 1st day of April, 2003, is a loss, then, for the purposes of sub-section (9) of section 2 of this Act,—

- (i) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1996, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1997 or the 1st day of April, 1998 or the 1st day of April, 1999 or the 1st day of April, 2000 or the 1st day of April, 2001 or the 1st day of April, 2002 or the 1st day of April, 2003,
- (ii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1997, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1998 or the 1st day of April, 1999 or the 1st day of April, 2000 or the 1st day of April, 2001 or the 1st day of April, 2002 or the 1st day of April, 2003,
- (iii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1998, to the extent, if any, such loss has not been set off

against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1999 or the 1st day of April, 2000 or the 1st day of April, 2001 or the 1st day of April, 2002 or the 1st day of April, 2003,

- (iv) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1999, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2000 or the 1st day of April, 2001 or the 1st day of April, 2002 or the 1st day of April, 2003,
- (v) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2000, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2001 or the 1st day of April, 2002 or the 1st day of April, 2003,
- (vi) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2001, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2002 or the 1st day of April, 2003,
- (vii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2002, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2003,
- (viii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2003,

shall be set off against the agricultural income of the assessee for the previous year relevant to the assessment year commencing on the 1st day of April, 2004.

(3) Where any person deriving any agricultural income from any source has been succeeded in such capacity by another person, otherwise than by inheritance, nothing in sub-rule (1) or sub-rule (2) shall entitle any person, other than the person incurring the loss, to have it set off under sub-rule (1) or, as the case may be, sub-rule (2).

(4) Notwithstanding anything contained in this rule, no loss which has not been determined by the Assessing Officer under the provisions of these rules or the rules contained in Part IV of the First Schedule to the Finance Act, 1995 (22 of 1995), or of the First Schedule to the Finance (No.2) Act, 1996 (33 of 1996), or of the First Schedule to the Finance Act, 1997 (26 of 1997), or of the First Schedule to the Finance (No.2) Act, 1998 (21 of 1998), or of the First Schedule to the Finance Act, 1999 (27 of 1999), or of the First Schedule to the Finance Act, 2000 (10 of 2000), or of the First Schedule to the Finance Act, 2001 (14 of 2001), or of the First Schedule to the Finance Act, 2002 (20 of 2002), shall be set off under sub-rule (1) or, as the case may be, sub-rule (2).

Rule 9.—Where the net result of the computation made in accordance with these rules is a loss, the loss so computed shall be ignored and the net agricultural income shall be deemed to be *nil*.

Rule 10.—The provisions of the Income-tax Act relating to procedure for assessment (including the provisions of section 288A relating to rounding off of income) shall, with the necessary modifications, apply in relation to the computation of the net agricultural income of the assessee as they apply in relation to the assessment of the total income.

Rule 11.—For the purposes of computing the net agricultural income of the assessee, the Assessing Officer shall have the same powers as he has under the Income-tax Act for the purposes of assessment of the total income.

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