

CHAPTER III 15  
DIRECT TAXES  
*Income-tax*

- Amendment of section 2. 3. In section 2 of the Income-tax Act, in clause (24), after sub-clause (xii), the following sub-clause shall be inserted with effect from the 1st day of April, 2005, namely:—
- '(xiii) any sum received by an individual or a Hindu undivided family from any person on or after the 1st day of September, 2004,— 20
- (A) in cash or by issue of a cheque or draft or by any other mode or by way of credit;
- (B) otherwise than by way of consideration for goods or services,
- but does not include—
- (I) the sum received by, or credited in the account of,— 25
- (i) any individual from a relative out of natural love and affection; or
- (ii) any individual or a Hindu undivided family under a will or by way of inheritance; or
- (iii) any employee, or any dependant of the deceased employee, from an employer, by way of bonus, gratuity, pension or insurance or any other sum solely in recognition of the services rendered by the employee; or 30
- (II) any sum received in contemplation of death of an individual or karta or member of a Hindu undivided family; or
- (III) any income referred to in section 10 or any other income which is exempt or not included in the total income under this Act; or
- (IV) any sum received on account of transactions not regarded as transfer referred to in section 47. 35
- Explanation.*—For the purposes of this sub-clause, “relative” means—
- (i) spouse of the individual;
- (ii) brother or sister of the individual;
- (iii) brother or sister of the spouse of the individual;
- (iv) brother or sister of either of the parents of the individual; 40
- (v) any lineal ascendant or descendant of the individual;
- (vi) any lineal ascendant or descendant of the spouse of the individual;
- (vii) spouse of the person referred to in clauses (ii) to (vi);<sup>1</sup>.
- Amendment of section 7. 4. In section 7 of the Income-tax Act, after clause (ii), the following clause shall be inserted at the end, namely:— 45
- “(iii) the contribution made, by the Central Government in the previous year, to the account of an employee under a pension scheme referred to in section 80CCD.”.

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

(a) in clause (4), in sub-clause (ii), after the proviso, the following proviso shall be inserted with effect from the 1st day of April, 2005, namely:—

Amendment  
of section 10.

5 “Provided further that nothing contained in this sub-clause shall apply to any income by way of interest paid or credited on or after the 1st day of September, 2004 to the Non-Resident (External) Account of such individual;”;

10 (b) in clause (6BB), for the words, figures and letters “an agreement entered after the 31st day of March, 1997 but before the 1st day of April, 1999 and approved by the Central Government in this behalf”, the words, figures and letters “an agreement entered into after the 31st day of March, 1997 but before the 1st day of April, 1999, or entered into after the 31st day of August, 2004, and approved by the Central Government in this behalf” shall be substituted with effect from the 1st day of September, 2004;

(c) in clause (15), with effect from the 1st day of April, 2005,—

(A) after sub-clause (iiib), the following sub-clause shall be inserted, namely:—

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

(B) in sub-clause (iv), in item (fa), after the words “by a scheduled bank”, the words, figures and letters “before the 1st day of September, 2004” shall be inserted;

20 (d) in clause (15A), before the *Explanation*, the following proviso shall be inserted with effect from the 1st day of April, 2005, namely:—

“Provided that nothing contained in this clause shall apply to any such agreement entered into on or after the 1st day of September, 2004.”;

25 (e) after clause (18), the following clause shall be inserted with effect from the 1st day of April, 2005, namely:—

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

30 (f) in clause (23FB), with effect from the 1st day of October, 2004,—

(i) in *Explanation 1*, for clause (c), the following clause shall be substituted, namely:—

‘(c) “venture capital undertaking” means a venture capital undertaking referred to in the Securities and Exchange Board of India (Venture Capital Funds) Regulations, 1996 made under the Securities and Exchange Board of India Act, 1992 and notified as such in the Official Gazette by the Board for the purposes of this clause;’;

(ii) *Explanation 2* shall be omitted;

(g) in clause (23G), before the *Explanation 1*, the following proviso shall be inserted with effect from the 1st day of April, 2005, namely:—

40 “Provided that the income, by way of dividends, other than dividends referred to in section 115-O, interest or long-term capital gains of an infrastructure capital company, shall be taken into account in computing the book profit and income-tax payable under section 115JB.”;

(h) after clause (36), the following shall be inserted with effect from the 1st day of April, 2005, namely:—

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

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

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

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

(iv) such income has arisen from the compensation or consideration for such transfer received by such assessee on or after the 1st day of April, 2004. 5

*Explanation.*—For the purposes of this clause, the expression “compensation or consideration” includes the compensation or consideration enhanced or further enhanced by any court, tribunal or other authority;

(38) any income arising from the transfer of a long-term capital asset, being securities, and the transaction of sale of such securities is entered into in a recognised stock exchange in India on or after the date on which Chapter VII of the Finance (No. 2) Act, 2004 comes into force. 10

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

(a) “securities” shall have the meaning assigned to it in clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956; 42 of 1956.

(b) “recognised stock exchange” shall have the meaning assigned to it in clause (f) of section 2 of the Securities Contracts (Regulation) Act, 1956;” 15 42 of 1956.

(39) any income referred to in sub-clause (xiii) of clause (24) of section 2, to the extent the aggregate of such income received or credited during the previous year does not exceed a sum of twenty-five thousand rupees, or any some received by an individual on the occasion of his marriage.!

Amendment of section 12AA. 6. In section 12AA of the Income-tax Act, after sub-section (2), the following sub-section shall be inserted at the end, with effect from the 1st day of October, 2004, namely:— 20

“(3) Where a trust or an institution has been granted registration under clause (b) of sub-section (1) and subsequently the Commissioner is satisfied that the activities of such trust or institution are not genuine or are not being carried out in accordance with the objects of the trust or institution, as the case may be, he shall pass an order in writing cancelling the registration of such trust or institution: 25

Provided that no order under this sub-section shall be passed unless such trust or institution has been given a reasonable opportunity of being heard.”

Amendment of section 17. 7. In section 17 of the Income-tax Act, in clause (1), after sub-clause (vii), the following sub-clause shall be inserted, namely:—

“(viii) the contribution made by the Central Government in the previous year, to the account of an employee under a pension scheme referred to in section 80CCD;” 30

Amendment of section 32. 8. In section 32 of the Income-tax Act, in sub-section (1), in clause (iia), in the first proviso, in clause (B), for the words “twenty-five per cent.”, the words “ten per cent.” shall be substituted with effect from the 1st day of April, 2005.

Amendment of section 33AC. 9. In section 33AC of the Income-tax Act, in sub-section (1), after the second proviso, the following proviso shall be inserted with effect from the 1st day of April, 2005, namely:— 35

“Provided also that no deduction shall be allowed under this section for any assessment year commencing on or after the 1st day of April, 2005.”

Amendment of section 35AC. 10. In section 35AC of the Income-tax Act, for sub-sections (4) and (5), the following sub-sections shall be substituted with effect from the 1st day of October, 2004, namely:— 40

“(4) Where an association or institution is approved by the National Committee under sub-section (1), and subsequently—

(i) that Committee is satisfied that the project or the scheme is not being carried on in accordance with all or any of the conditions subject to which approval was granted; or

(ii) such association or institution, to which approval has been granted, has not furnished to the National Committee, after the end of each financial year, a report in such form and setting forth such particulars and within such time as may be prescribed, 45

the National Committee may, at any time, after giving a reasonable opportunity of showing cause against the proposed withdrawal to the concerned association or institution, withdraw the approval: 50

Provided that a copy of the order withdrawing the approval shall be forwarded by the National Committee to the Assessing Officer having jurisdiction over the concerned association or institution.

(5) Where any project or scheme has been notified as an eligible project or scheme under clause (b) of the *Explanation*, and subsequently—

5 (i) the National Committee is satisfied that the project or the scheme is not being carried on in accordance with all or any of the conditions subject to which such project or scheme was notified; or

(ii) a report in respect of such eligible project or scheme has not been furnished after the end of each financial year, in such form and setting forth such particulars and within such time as may be prescribed,

such notification may be withdrawn in the same manner in which it was issued:

Provided that a reasonable opportunity of showing cause against the proposed withdrawal shall be given by the National Committee to the concerned association, institution, public sector company or local authority, as the case may be:

15 Provided further that a copy of the notification by which the notification of the eligible project or scheme is withdrawn shall be forwarded to the Assessing Officer having jurisdiction over the concerned association, institution, public sector company or local authority, as the case may be, carrying on such eligible project or scheme.”.

20 **11.** In section 40 of the Income-tax Act, in clause (a), after sub-clause (i), the following shall be inserted with effect from the 1st day of April, 2005, namely:— Amendment of section 40.

‘(ia) any interest, commission or brokerage, fees for professional services or fees for technical services payable to a resident, or amounts credited or paid to a contractor or sub-contractor, being resident, for carrying out any work (including supply of labour for carrying out any work), 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 the 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.

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

(i) “commission or brokerage” shall have the same meaning as in clause (i) of the *Explanation* to section 194H;

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

35 (iii) “professional services” shall have the same meaning as in clause (a) of the *Explanation* to section 194J;

(iv) “work” shall have the same meaning as in *Explanation III* to section 194C;’.

**12.** In section 56 of the Income-tax Act, in sub-section (2), after clause (iv), the following clause shall be inserted at the end, with effect from the 1st day of April, 2005, namely:— Amendment of section 56.

40 “(v) income referred to in sub-clause (xiii) of clause (24) of section 2.”.

**13.** In section 71 of the Income-tax Act, after sub-section (2), the following sub-section shall be inserted with effect from the 1st day of April, 2005, namely:— Amendment of section 71.

45 ‘(2A) Notwithstanding anything contained in sub-section (1) or sub-section (2), where in respect of any assessment year, the net result of the computation under the head “Profits and gains of business or profession” is a loss and the assessee has income assessable under the head “Salaries”, the assessee shall not be entitled to have such loss set off against such income.’.

**14.** After section 80CCC of the Income-tax Act, the following section shall be inserted, namely:— Insertion of new section 80CCD.

50 ‘80CCD. (1) Where an assessee, being an individual employed by the Central Government on or after the 1st day of January, 2004, has in the previous year paid or deposited any amount in his account under a pension scheme notified or as may be notified by the Central Government, he shall, in accordance with, and subject to, the provisions of this section, be allowed a deduction in the computation of his total income, of the whole of the amount so paid or deposited as does not exceed ten per cent. of his salary in the previous year. Deduction in respect of contribution to pension scheme of Central Government.

(2) Where, in the case of an assessee referred to in sub-section (1), the Central Government makes any contribution to his account referred to in that sub-section, the assessee shall be allowed a deduction in the computation of his total income, of the whole of the amount contributed by the Central Government as does not exceed ten per cent. of his salary in the previous year.

(3) Where any amount standing to the credit of the assessee in his account referred to in sub-section (1), in respect of which a deduction has been allowed under that sub-section or sub-section (2), together with the amount accrued thereon, if any, is received by the assessee or his nominee, in whole or in part, in any previous year,—

(a) on account of closure or his opting out of the pension scheme referred to in sub-section (1); or

(b) as pension received from the annuity plan purchased or taken on such closure or opting out,

the whole of the amount referred to in clause (a) or clause (b) shall be deemed to be the income of the assessee or his nominee, as the case may be, in the previous year in which such amount is received, and shall accordingly be charged to tax as income of that previous year.

(4) Where any amount paid or deposited by the assessee has been allowed as a deduction under sub-section (1), no rebate with reference to such amount shall be allowed under section 88.

*Explanation.*—For the purposes of this section, “salary” includes dearness allowance, if the terms of employment so provide, but excludes all other allowances and perquisites.’

Amendment  
of section  
80DD.

**15.** In section 80DD of the Income-tax Act, in the *Explanation*, with effect from the 1st day of April, 2005,—

(a) in clause (c), after the figures “1995”, occurring at the end, the words, brackets, letters and figures ‘and includes “autism”, “cerebral palsy” and “multiple disability” referred to in clauses (a), (c) and (h) of section 2 of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999’ shall be inserted;

(b) in clause (e), after the figures “1995”, occurring at the end, the words, brackets, letters and figures ‘or such other medical authority as may, by notification, be specified by the Central Government for certifying “autism”, “cerebral palsy”, “multiple disabilities”, “person with disability” and “severe disability” referred to in clauses (a), (c), (h), (j) and (o) of section 2 of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999’ shall be inserted;

(c) in clause (f), after the figures “1995”, occurring at the end, the words, brackets, letter and figures “or clause (j) of section 2 of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999” shall be inserted;

(d) for clause (g), the following clause shall be substituted, namely:—

‘(g) “person with severe disability” means—

(i) a person with eighty per cent. or more of one or more disabilities, as referred to in sub-section (4) of section 56 of the Persons With Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995; or

(ii) a person with severe disability referred to in clause (o) of section 2 of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999;’.

Amendment  
of section  
80-IA.

**16.** In section 80-IA of the Income-tax Act, with effect from the 1st day of April, 2005,—

(a) in sub-section (2), after the words “generates power or commences transmission or distribution of power”, the words “or undertakes substantial renovation and modernisation of the existing transmission or distribution lines” shall be inserted;

(b) in sub-section (3),—

(A) in the opening portion, for the words, brackets and figures “undertaking referred to in clause (iv)”, the words, brackets and figures “undertaking referred to in clause (ii) or clause (iv)” shall be substituted;

(B) after clause (ii) and before the *Explanation 1*, the following proviso shall be inserted, namely:—

“Provided that nothing contained in this sub-section shall apply in the case of transfer, either in whole or in part, of machinery or plant previously used by a State Electricity Board referred to in clause (7) of section 2 of the Electricity Act, 2003, whether or not such transfer is in pursuance of the splitting up or reconstruction or reorganisation of the Board under Part XIII of that Act.”;

(c) in sub-section (4),—

(A) in clause (ii), for the figures, letters and words “31st day of March, 2004”, the figures, letters and words “31st day of March, 2005” shall be substituted;

(B) in clause (iv), after sub-clause (b), the following shall be inserted, namely:—

‘(c) undertakes substantial renovation and modernisation of the existing network of transmission or distribution lines at any time during the period beginning on the 1st day of April, 2004 and ending on the 31st day of March, 2006.

*Explanation.*—For the purposes of this sub-clause, “substantial renovation and modernisation” means an increase in the plant and machinery in the network of transmission or distribution lines by at least fifty per cent. of the book value of such plant and machinery as on the 1st day of April, 2004.’

17. In section 80-IB of the Income-tax Act, with effect from the 1st day of April, 2005,—

Amendment of section 80-IB.

(a) in sub-section (1), for the brackets, figures, word and letter “(11) and (11A)”, the brackets, figures, letters and word “(11), (11A) and (11B)” shall be substituted;

(b) in sub-section (4), after the third proviso, the following provisos shall be inserted, namely:—

‘Provided also that in the case of an industrial undertaking in the State of Jammu and Kashmir, the provisions of the first proviso shall have effect as if for the figures, letters and words “31st day of March, 2004”, the figures, letters and words “31st day of March, 2005” had been substituted:

Provided also that no deduction under this sub-section shall be allowed to an industrial undertaking in the State of Jammu and Kashmir which is engaged in the manufacture or production of any article or thing specified in Part C of the Thirteenth Schedule.’ ;

(c) in sub-section (8A), in clause (iii), for the figures, letters and words “1st day of April, 2004”, the figures, letters and words “1st day of April, 2005” shall be substituted;

(d) for sub-section (10), the following shall be substituted, namely:—

“(10) The amount of deduction in the case of an undertaking developing and building housing projects approved before the 31st day of March, 2007 by a local authority shall be hundred per cent. of the profits derived in the previous year relevant to any assessment year from such housing project if,—

(a) such undertaking has commenced or commences development and construction of the housing project on or after the 1st day of October, 1998 and completes such construction within four years from the end of the financial year in which the housing project is approved by the local authority.

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

(i) in a case where the approval in respect of the housing project is obtained more than once, such housing project shall be deemed to have been approved on the date on which the building plan of such housing project is first approved by the local authority;

(ii) the date of completion of construction of the housing project shall be taken to be the date on which the completion certificate in respect of such housing project is issued by the local authority;

(b) the project is on the size of a plot of land which has a minimum area of one acre:

Provided that nothing contained in this clause shall apply to a housing project carried out in accordance with a scheme framed by the Central Government or a State Government for reconstruction or redevelopment of existing buildings and such scheme is notified by the Board in this behalf;

(c) the residential unit has a maximum built-up area of one thousand square feet where such residential unit is situated within the cities of Delhi or Mumbai or within twenty-five kilometres from the municipal limits of these cities and one thousand and five hundred square feet at any other place; and

(d) the built-up area of the shops and other commercial establishments included in the housing project does not exceed five per cent. of the aggregate built-up area of the housing project or two thousand square feet, whichever is less.”;