

(e) in sub-section (11A), after the words “an undertaking deriving profit from”, the words “the business of processing, preservation and packaging of fruits and vegetables or” shall be inserted;

(f) after sub-section (11A), the following sub-section shall be inserted, namely:—

“(11B) The amount of deduction in the case of an undertaking deriving profits from the business of operating and maintaining a hospital in a rural area shall be hundred per cent. of the profits and gains of such business for a period of five consecutive assessment years, beginning with the initial assessment year if—

(i) such hospital is constructed at any time during the period beginning on the 1st day of October, 2004 and ending on the 31st day of March, 2008;

(ii) the hospital has at least one hundred beds for patients;

(iii) the construction of the hospital is in accordance with the regulations, for the time being in force, of the local authority; and

(iv) the assessee furnishes along with the return of income, the report of an audit in such form and containing such particulars as may be prescribed, and duly signed and verified by an accountant, as defined in the *Explanation* below sub-section (2) of section 288, certifying that the deduction has been correctly claimed.

*Explanation.*—For the purposes of this sub-section, a hospital shall be deemed to have been constructed on the date on which a completion certificate in respect of such construction, is issued by the concerned local authority.”;

(g) in sub-section (14),—

(A) clauses (a) and (aa) shall be re-lettered as clauses (aa) and (ab) respectively, and before clause (aa) as so re-lettered, the following clause shall be inserted, namely:—

‘(a) “built-up area” means the inner measurements of the residential unit at the floor level, including the projections and balconies, as increased by the thickness of the walls but does not include the common areas shared with other residential units;’;

(B) in clause (c),—

(i) in sub-clause (iv), after the words “undertaking engaged”, the words “in the business of processing, preservation and packaging of fruits and vegetables or” shall be inserted;

(ii) after sub-clause (vi), the following sub-clause shall be inserted, namely:—

“(vii) in the case of an undertaking engaged in operating and maintaining a hospital in a rural area, means the assessment year relevant to the previous year in which the undertaking begins to provide medical services.”.

Amendment of section 80U. **18.** In section 80U of the Income-tax Act, for the *Explanation*, the following *Explanation* shall be substituted with effect from the 1st day of April, 2005, namely:—

‘*Explanation.*—For the purposes of this section,—

(a) “disability” shall have the meaning assigned to it in clause (i) of section 2 of the Persons With Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, and includes “autism”, “cerebral palsy” and “multiple disabilities” 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;

(b) “medical authority” means the medical authority as referred to in clause (p) of section 2 of the Persons With Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, 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;

(c) “person with disability” means a person referred to in clause (t) of section 2 of the Persons With Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, 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;

(d) “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.’.

- 19.** In section 87 of the Income-tax Act, with effect from the 1st day of April, 2005,— Amendment of section 87.
- 5 (a) in sub-section (1), for the words, figures and letters “sections 88, 88A, 88B and 88C”, the words, figures and letters “sections 88, 88A, 88B, 88C and 88D” shall be substituted;
- (b) in sub-section (2), after the words, figures and letter “or section 88C”, the words, figures and letter “or section 88D” shall be inserted.
- 20.** In section 88 of the Income-tax Act, in sub-section (2), in clause (xv), in sub-clause (c), after item Amendment of section 88.
- 10 (6), the following item shall be inserted with effect from the 1st day of April, 2005, namely:—
- “(6A) the assessee’s employer where such employer is an authority or a board or a corporation or any other body established or constituted under a Central or State Act, or”.
- 21.** After section 88C of the Income-tax Act, the following section shall be inserted with effect from Insertion of new section 88D.
- 15 the 1st day of April, 2005, namely:—
- “88D. An assessee, being an individual resident in India, whose total income does not exceed Rebate of income-tax in case of individuals having income not exceeding one hundred thousand rupees.
- one hundred thousand rupees, shall be entitled to a deduction from the amount of income-tax (as computed before allowing the deductions under this Chapter) on his total income with which he is chargeable for any assessment year, of an amount equal to hundred per cent. of such income-tax.”.
- 22.** In section 90 of the Income-tax Act, in the *Explanation*, the words and brackets “, where such Amendment of section 90.
- 20 foreign company has not made the prescribed arrangement for declaration and payment within India, of the dividends (including dividends on preference shares) payable out of its income in India” shall be omitted and shall be deemed to have been omitted with effect from the 1st day of April, 1962.
- 23.** In section 94 of the Income-tax Act, with effect from the 1st day of April, 2005,— Amendment of section 94.
- (a) in sub-section (7), for clause (b), the following clause shall be substituted, namely:—
- 25 “(b) such person sells or transfers—
- (i) such securities within a period of three months after such date, or
- (ii) such unit within a period of nine months after such date;”;
- (b) after sub-section (7), the following sub-section shall be inserted, namely:—
- “(8) Where—
- 30 (a) any person buys or acquires any units within a period of three months prior to the record date;
- (b) such person is allotted additional units without any payment on the basis of holding of such units on such date;
- 35 (c) such person sells or transfers all or any of the units referred to in clause (a) within a period of nine months after such date, while continuing to hold all or any of the additional units referred to in clause (b),
- then, the loss, if any, arising to him on account of such purchase and sale of all or any of such units shall be ignored for the purposes of computing his income chargeable to tax and notwithstanding anything contained in any other provision of this Act, the amount of loss so
- 40 ignored shall be deemed to be the cost of purchase or acquisition of such additional units referred to in clause (b) as are held by him on the date of such sale or transfer.”;
- (c) in the *Explanation*, for clause (aa), the following clause shall be substituted, namely:—
- ‘(aa) “record date” means such date as may be fixed by—
- 45 (i) a company for the purposes of entitlement of the holder of the securities to receive dividend; or
- (ii) a Mutual Fund or the Administrator of the specified undertaking or the specified company as referred to in the *Explanation* to clause (35) of section 10, for the purposes of entitlement of the holder of the units to receive income, or additional unit without any consideration, as the case may be;’.

Insertion of new section 111A.	<b>24.</b> After section 111 of the Income-tax Act, the following section shall be inserted, with effect from the 1st day of April, 2005, namely:—	
Tax on short-term capital gains in certain cases.	<p>‘111A. Where the total income of an assessee includes any income, chargeable under the head “Capital gains”, arising from the transfer of a short-term capital asset, being securities and the transaction of sale of such securities is entered into on 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, the tax payable by the assessee on the total income shall be the aggregate of—</p> <p>(i) the amount of income-tax payable on the total income as reduced by the amount of such short-term capital gains, had the total income as so reduced been his total income; and</p> <p>(ii) the amount of income-tax calculated on such short-term capital gains at the rate of ten per cent.:</p> <p>Provided that in the case of an individual or a Hindu undivided family, being a resident, where the total income as reduced by such short-term capital gains is below the maximum amount which is not chargeable to income-tax, then, such short-term capital gains shall be reduced by the amount by which the total income as so reduced falls short of the maximum amount which is not chargeable to income-tax and the tax on the balance of such short-term capital gains shall be computed at the rate of ten per cent.</p> <p><i>Explanation.</i>—For the purposes of this section, “securities” and “recognised stock exchange” shall have the meanings, respectively, assigned to them in clause (38) of section 10.’</p>	5
Amendment of section 115AD.	<b>25.</b> In section 115AD of the Income-tax Act, in sub-section (1), in clause (ii), the following proviso shall be inserted with effect from the 1st day of April, 2005, namely:—	20
	“Provided that the amount of income-tax calculated on the income by way of short-term capital gains referred to in section 111A shall be at the rate of ten per cent.,”.	
Amendment of section 115JB.	<b>26.</b> In section 115JB of the Income-tax Act, in the <i>Explanation</i> , with effect from the 1st day of April, 2005,—	25
	<p>(a) in clause (f), for the word and figures “section 10”, the words, figures, brackets and letter “section 10 [other than the provisions contained in clause (23G) thereof]” shall be substituted;</p> <p>(b) in clause (ii), for the words and figures “provisions of section 10”, the words, figures, brackets and letter “provisions of section 10 [other than the provisions contained in clause (23G) thereof]” shall be substituted.</p>	30
Amendment of section 115R.	<b>27.</b> In section 115R of the Income-tax Act, in sub-section (2),—	
	<p>(a) for the words “at the rate of twelve and one-half per cent.”, the following shall be substituted with effect from the 9th day of July, 2004, namely:—</p> <p>“at the rate of—</p> <p>(i) twelve and one-half per cent. on income distributed to any person being an individual or a Hindu undivided family; and</p> <p>(ii) twenty per cent. on income distributed to any other person.”;</p> <p>(b) in the proviso, the words, figures and letters “for a period of one year commencing from the 1st day of April, 2003” shall be omitted.</p>	35
Insertion of new Chapter XII-G.	<b>28.</b> After Chapter XII-F of the Income-tax Act, the following Chapter shall be inserted with effect from the 1st day of April, 2005, namely:—	40

‘CHAPTER XII-G

SPECIAL PROVISIONS RELATING TO INCOME OF SHIPPING COMPANIES

*A.—Meaning of certain expressions*

Definitions.	115V. In this Chapter, unless the context otherwise requires,—	45
	<p>(a) “bareboat charter” means hiring of a ship for a stipulated period on terms which give the charterer possession and control of the ship, including the right to appoint the master and crew;</p> <p>(b) “bareboat charter-cum-demise” means a bareboat charter where the ownership of the ship is intended to be transferred after a specified period to the company to whom it has been chartered;</p> <p>(c) “Director-General of Shipping” means the Director-General of Shipping appointed by the Central Government under sub-section (1) of section 7 of the Merchant Shipping Act, 1958;</p>	50

(d) "factory ship" includes a vessel providing processing services in respect of processing of the fishing produce;

44 of 1958.

(e) "fishing vessel" shall have the meaning assigned to it in clause (12) of section 3 of the Merchant Shipping Act, 1958;

5 (f) "pleasure craft" means a ship of a kind whose primary use is for the purposes of sport or recreation;

(g) "qualifying company" means a company referred to in section 115VC;

(h) "qualifying ship" means a ship referred to in section 115VD;

10 (i) "seagoing ship" means a ship if it is certified as such by the competent authority of any country;

(j) "tonnage income" means the income of a tonnage tax company computed in accordance with the provisions of this Chapter;

(k) "tonnage tax activities" means the activities referred to in sub-sections (2) and (5) of section 115V-I;

15 (l) "tonnage tax company" means a qualifying company in relation to which tonnage tax option is in force;

(m) "tonnage tax scheme" means a scheme for computation of profits and gains of business of operating qualifying ships under the provisions of this Chapter.

*B.—Computation of tonnage income from business of operating qualifying ships*

20 115VA. Notwithstanding anything to the contrary contained in sections 28 to 43C, in the case of a company, the income from the business of operating qualifying ships, may, at its option, be computed in accordance with the provisions of this Chapter and such income shall be deemed to be the profits and gains of such business chargeable to tax under the head "Profits and gains of business or profession".

Computation of profits and gains from the business of operating qualifying ships.

25 115VB. For the purposes of this Chapter, a company shall be regarded as operating a ship if it operates any ship whether owned or chartered by it and includes a case where even a part of the ship has been chartered in by it in an arrangement such as slot charter, space charter or joint charter:

Operating ships.

30 Provided that a company shall not be regarded as the operator of a ship which has been chartered out by it on bareboat charter-cum-demise terms or on bareboat charter terms for a period exceeding three years.

115VC. For the purposes of this Chapter, a company is a qualifying company if—

1 of 1956.

(a) it is a company formed and registered under the Companies Act, 1956;

(b) the place of effective management of the company is in India;

35 (c) it owns at least one qualifying ship; and

(d) the main object of the company is to carry on the business of operating qualifying ships.

Qualifying company.

*Explanation.*—For the purposes of this section, "place of effective management of the company" means—

40 (A) the place where the board of directors of the company or its executive directors, as the case may be, make their decisions; or

(B) in a case where the board of directors routinely approve the commercial and strategic decisions made by the executive directors or officers of the company, the place where such executive directors or officers of the company perform their functions.

44 of 1958.

45 115VD. For the purposes of this Chapter, a qualifying ship means any seagoing ship or vessel of fifteen net tonnage or more which is registered under the Merchant Shipping Act, 1958 and in respect of which a valid certificate indicating its net tonnage is in force, but does not include—

Qualifying ship.

(i) a seagoing ship or vessel if the main purpose for which it is used is the provision of goods or services of a kind normally provided on land;

(ii) fishing vessels;

50 (iii) factory ships;

- (iv) pleasure crafts;
- (v) harbour and river ferries;
- (vi) offshore installations;
- (vii) dredgers;
- (viii) a qualifying ship which is used as a fishing vessel for a period of more than thirty days during a previous year. 5

Manner of computation of income under tonnage tax scheme.

115VE. (1) A tonnage tax company engaged in the business of operating qualifying ships shall compute the profits from such business under the tonnage tax scheme.

(2) The business of operating qualifying ships giving rise to income referred to in sub-section (1) of section 115V-I shall be considered as a separate business (hereafter in this Chapter referred to as the tonnage tax business) distinct from all other activities or business carried on by the company. 10

(3) The profits referred to in sub-section (1) shall be computed separately from the profits and gains from any other business.

(4) The tonnage tax scheme shall apply only if an option to that effect is made in accordance with the provisions of section 115VP. 15

(5) Where a company engaged in the business of operating qualifying ships is not covered under the tonnage tax scheme or, has not made an option to that effect, as the case may be, the profits and gains of such company from such business shall be computed in accordance with the other provisions of this Act.

Tonnage income.

115VF. Subject to the other provisions of this Chapter, the tonnage income shall be computed in accordance with section 115VG and the income so computed shall be deemed to be the profits chargeable under the head "Profits and gains of business or profession" and the relevant shipping income referred to in sub-section (1) of section 115V-I shall not be chargeable to tax. 20

Computation of tonnage income.

115VG. (1) The tonnage income of a tonnage tax company for a previous year shall be the aggregate of the tonnage income of each qualifying ship computed in accordance with the provisions of sub-sections (2) and (3). 25

(2) For the purposes of sub-section (1), the tonnage income of each qualifying ship shall be the daily tonnage income of each such ship multiplied by—

(a) the number of days in the previous year; or

(b) the number of days in part of the previous year in case the ship is operated by the company as a qualifying ship for only part of the previous year, 30

as the case may be.

(3) For the purposes of sub-section (2), the daily tonnage income of a qualifying ship having tonnage referred to in column (1) of the Table below shall be the amount specified in the corresponding entry in column (2) of the Table: 35

TABLE

Qualifying ship having net tonnage	Amount of daily tonnage income	
(1)	(2)	
up to 1,000	Rs. 46 for each 100 tons	40
exceeding 1,000 but not more than 10,000	Rs. 460 plus Rs. 35 for each 100 tons exceeding 1,000 tons	
exceeding 10,000 but not more than 25,000	Rs. 3,610 plus Rs. 28 for each 100 tons exceeding 10,000 tons	
exceeding 25,000	Rs. 7,810 plus Rs.19 for each 100 tons exceeding 25,000 tons.	45

(4) For the purposes of this Chapter, the tonnage shall mean the tonnage of a ship indicated in the certificate referred to in section 115VX and includes the deemed tonnage computed in the prescribed manner.

*Explanation.*—For the purposes of this sub-section, “deemed tonnage” shall be the tonnage in respect of an arrangement of purchase of slots, slot charter and an arrangement of sharing of break-bulk vessel. 50

5 (5) The tonnage shall be rounded off to the nearest multiple of hundred tons and for this purpose any tonnage consisting of kilograms shall be ignored and thereafter if such tonnage is not a multiple of hundred, then, if the last figure in that amount is fifty tons or more, the tonnage shall be increased to the next higher tonnage which is a multiple of hundred and if the last figure is less than fifty tons, the tonnage shall be reduced to the next lower tonnage which is a multiple of hundred; and the tonnage so rounded off shall be the tonnage of the ship for the purposes of this section.

(6) Notwithstanding anything contained in any other provision of this Act, no deduction or set off shall be allowed in computing the tonnage income under this Chapter.

10 115VH. (1) Where a qualifying ship is operated by two or more companies by way of joint interest in the ship or by way of an agreement for the use of the ship and their respective shares are definite and ascertainable, the tonnage income of each such company shall be an amount equal to a share of income proportionate to its share of that interest.

Calculation in case of joint operation, etc.

15 (2) Subject to the provisions of sub-section (1), where two or more companies are operators of a qualifying ship, the tonnage income of each company shall be computed as if each had been the only operator.

115V-I. (1) For the purposes of this Chapter, the relevant shipping income of a tonnage tax company means—

Relevant shipping income.

(i) its profits from core activities referred to in sub-section (2);

(ii) its profits from incidental activities referred to in sub-section (5):

20 Provided that where the aggregate of all such incomes specified in clause (ii) exceeds one-fourth per cent. of the turnover from core activities referred to in sub-section (2), such excess shall not form part of the relevant shipping income for the purposes of this Chapter and shall be taxable under the other provisions of this Act.

(2) The core activities of a tonnage tax company shall be—

25 (i) its activities from operating qualifying ships; and

(ii) other ship-related activities mentioned as under:—

(A) shipping contracts in respect of—

(i) earning from pooling arrangements;

(ii) contracts of affreightment.

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

(a) “pooling arrangement” means an agreement between two or more persons for providing services through a pool or operating one or more ships and sharing earnings or operating profits on the basis of mutually agreed terms;

35 (b) “contract of affreightment” means a service contract under which a tonnage tax company agrees to transport a specified quantity of specified products at a specified rate, between designated loading and discharging ports over a specified period;

(B) specific shipping trades, being,—

(i) on-board or on-shore activities of passenger ships comprising of fares and food and beverages consumed on board;

40 (ii) slot charters, space charters, joint charters, feeder services, container box leasing of container shipping.

45 (3) The Central Government, if it considers necessary or expedient so to do, may, by notification in the Official Gazette, exclude any activity referred to in clause (ii) of sub-section (2) or prescribe the limit up to which such activities shall be included in the core activities for the purposes of this section.

50 (4) Every notification issued under this Chapter shall be laid, as soon as may be after it is issued, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the notification, or both Houses agree that the notification should not be issued, the notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that notification.