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**S. 80G** CH. VI-A - DEDUCTIONS IN RESPECT OF CERTAIN PAYMENTS **1.305**

*80F, dealing with deduction in respect of amounts applied for charitable or religious purposes, etc., was inserted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989. This new section was omitted by the Direct Tax Laws (Amendment) Act, 1989, with effect from the same date.]*

**Deduction in respect of expenses on higher education in certain cases.**

**80FF.** [Omitted by the Finance (No. 2) Act, 1980, w.e.f. 1-4-1981. Original section was inserted by the Finance Act, 1975, w.e.f. 1-4-1976.]

**<sup>84</sup>Deduction in respect of donations to certain funds, charitable institutions, etc.**

**<sup>85</sup>80G.** <sup>86</sup>[(1) In computing the total income of an assessee, there shall be deducted, in accordance with and subject to the provisions of this section,—

- <sup>87</sup>[(i) in a case where the aggregate of the sums specified in sub-section (2) includes any sum or sums of the nature specified in <sup>88</sup>[sub-clause (iiia) <sup>89</sup>[or in sub-clause (iiiaa) <sup>90</sup>[or in sub-clause (iiiab)] <sup>91</sup>[or in sub-clause (iiie)] <sup>92</sup>[or in sub-clause (iiif)] <sup>93</sup>[or in sub-clause (iiig)] or in] sub-

(Contd. from p. 1.304)

in accordance with and subject to the provisions of this section, be allowed a deduction of the amount specified in sub-section (2) in the computation of his total income.

(2) The amount referred to in sub-section (1) shall be—

- (i) in the case of an individual who has one such child, one thousand five hundred rupees; and
- (ii) in the case of an individual who has more than one such child, three thousand rupees."

<sup>84</sup> This section was inserted in place of section 88 which was deleted by the Finance (No. 2) Act, 1967, w.e.f. 1-4-1968. Now section 88 has taken the place of section 80C.

<sup>85</sup> See also Letter F. No. 45/313/66-ITJ (61), dated 2-12-1966, Circular No. 123, dated 31-10-1973, Letter [F. No. 16/38/64-IT(B)], dated 24-10-1964, Circular No. 416, dated 11-4-1985, Letter [F. No. 81/60/62-IT], dated 11-12-1962, Letter [F. No. 69/94/62-IT], dated 14-1-1963, Letter [F. No. 16/5/67-IT (A-I)], dated 5-4-1967, Circular No. 178, dated 23-9-1975, Letter [F. No. 69/22/63-IT], dated 28-9-1963, Letter [F. No. 69/13/62-IT], dated 20-7-1962 and Letter [F. No. 69/34/62-IT], dated 11-7-1962, Letter No. W 110421/1/77-C&G (FP), dated 11-1-1977 and Circular No. 678, dated 10-2-1994. For details, see Taxmann's Master Guide to Income-tax Act.

For relevant case laws, see Taxmann's Master Guide to Income-tax Act.

<sup>86</sup> Substituted by the Finance Act, 1976, w.e.f. 1-4-1977. Earlier, it was substituted by the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-4-1976.

<sup>87</sup> Substituted for the following clause (i) by the Finance Act, 1985, w.e.f. 1-4-1986:

"(i) in a case where the aggregate of the sums specified in sub-section (2) includes any sum specified in sub-clause (vii) of clause (a) thereof, an amount equal to the whole of such sum plus fifty per cent of the balance of such aggregate; and"

<sup>88</sup> Restored to its original expression by the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1-4-1989. Earlier, this was substituted by the Direct Tax Laws (Amendment) Act, 1987, with effect from the same date.

<sup>89</sup> Inserted by the Income-tax (Amendment) Act, 1989, w.e.f. 24-1-1989.

<sup>90</sup> Inserted by the Finance (No. 2) Act, 1991, w.e.f. 1-4-1991.

<sup>91</sup> Inserted by the Finance Act, 1993, w.e.f. 1-4-1993.

<sup>92</sup> Inserted, *ibid.*, w.e.f. 1-4-1994.

<sup>93</sup> Inserted by the Finance Act, 1994, w.e.f. 1-4-1994.

clause (vii) of clause (a) thereof, an amount equal to the whole of the sum or, as the case may be, sums of such nature plus fifty per cent of the balance of such aggregate; and]

(ii) in any other case, an amount equal to fifty per cent of the aggregate of the sums specified in sub-section (2).]

(2) The sums referred to in sub-section (1) shall be the following, namely:—

(a) any sums paid by the assessee in the previous year as donations to—

(i) the National Defence Fund set up by the Central Government; or

(ii) the Jawaharlal Nehru Memorial Fund referred to in the Deed of Declaration of Trust adopted by the National Committee at its meeting held on the 17th day of August, 1964; or

(iii) the Prime Minister's Drought Relief Fund; or

<sup>94</sup>[(iiiia) the Prime Minister's National Relief Fund; or]

<sup>95</sup>[(iiiiaa) the Prime Minister's Armenia Earthquake Relief Fund; or]

<sup>96</sup>[(iiiib) the Africa (Public Contributions - India) Fund; or]

<sup>97</sup>[(iiiib) the National Children's Fund; or]

<sup>98</sup>[(iiic) the Indira Gandhi Memorial Trust, the deed of declaration in respect whereof was registered at New Delhi on the 21st day of February, 1985; or]

<sup>99</sup>[(iiid) the Rajiv Gandhi Foundation, the deed of declaration in respect whereof was registered at New Delhi on the 21st day of June, 1991; or]

<sup>1</sup>[(iiie) the National Foundation for Communal Harmony; or]

<sup>2</sup>[(iiif) a University or any educational institution of national eminence as may be approved by the prescribed authority<sup>3</sup> in this behalf; or]

<sup>4</sup>[(iiig) the Maharashtra Chief Minister's Relief Fund during the period beginning on the 1st day of October, 1993 and ending on the 6th

94. Inserted by the Income-tax (Amendment) Act, 1976, with retrospective effect from 9-9-1975.

95. Inserted by the Income-tax (Amendment) Act, 1989, w.e.f. 24-1-1989.

96. Inserted by the Finance (No. 2) Act, 1991, w.e.f. 1-4-1991.

97. Inserted by the Finance Act, 1982, w.e.f. 1-4-1983.

98. Inserted by the Finance Act, 1985, w.e.f. 1-4-1985.

99. Inserted by the Finance (No. 2) Act, 1991, w.e.f. 1-4-1992.

1. Inserted by the Finance Act, 1993, w.e.f. 1-4-1993. Earlier existing sub-clause (iiie) was omitted by the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1-4-1989 and earlier inserted by the Direct Tax Laws (Amendment) Act, 1987, with effect from the same date.

2. Inserted by the Finance Act, 1993, w.e.f. 1-4-1994.

3. The prescribed authority under rule 18AAA is as follows: in relation to a university or any non-technical institution of national eminence: Director-General (Income-tax Exemption) in concurrence with the Secretary, University Grants Commission; in relation to any technical institution of national eminence: Director-General (Income-tax Exemption) in concurrence with the Secretary, All India Council of Technical Education.

4. Inserted by the Finance Act, 1994, w.e.f. 1-4-1994.

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day of October, 1993 or to the Chief Minister's Earthquake Relief Fund, Maharashtra; or]

- (iv) any other fund or any institution to which this section applies; or
- (v) the Government or any local authority, to be utilised for any charitable purpose<sup>5</sup> [other than the purpose of promoting family planning; or]

<sup>6</sup>[(vi) any authority referred to in clause (20A) of section 10; or

<sup>7</sup>(vii) the Government or to any such local authority, institution or association as may be approved in this behalf by the Central Government, to be utilised for the purpose of promoting family planning;]

- (b) any sums paid by the assessee in the previous year as donations for the renovation or repair of any such temple, mosque, gurdwara, church or other place as is notified<sup>8</sup> by the Central Government in the Official Gazette to be of historic, archaeological or artistic importance or to be a place of public worship of renown throughout any State or States.

(3) <sup>9</sup>[Omitted by the Finance Act, 1994, w.e.f. 1-4-1994.]

<sup>10</sup>(4) Where the aggregate of the sums referred to in sub-clauses (iv), (v), (vi) and (vii) of clause (a) and in clause (b) of sub-section (2) exceeds ten per cent of the gross total income (as reduced by any portion thereof on which income-tax is not payable under any provision of this Act and by any amount in respect of which the assessee is entitled to a deduction under any other provision of this

5. Inserted by the Finance Act, 1976, w.e.f. 1-4-1977.

6. Inserted, *ibid.*

7. For notified institution/association under this sub-clause, refer Taxmann's Direct Taxes Circulars, 1991 edn., Vol. 1, p. 746.

8. For complete list of places of public worship, etc., notified under this clause, refer Taxmann's Direct Taxes Circulars, 1991 edn., Vol. 1, pp. 746-766, Vol. 3, p. 2347, Taxmann's Yearly Tax Digest, 1989 edn., p. 5.29, 1990 edn., p. 4.31, 1991 edn., p. 6.36, 1992 edn., p. 6.77, 1993 edn., pp. 6.30 and 6.31 and 1994 edn., pp. 6.50-6.51.

9. Prior to its omission, sub-section (3) read as under:

"(3) No deduction shall be allowed under sub-section (1) if the aggregate of the sums referred to in sub-section (2) is less than two hundred and fifty rupees."

10. Substituted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989. Prior to its substitution, sub-section (4), as amended by the Taxation Laws (Amendment) Act, 1970, with retrospective effect from 1-4-1968 and Finance (No. 2) Act, 1977, w.e.f. 1-4-1978 and substituted by the Finance (No. 2) Act, 1980, w.e.f. 1-4-1981, stood as under:

"(4) Where the aggregate of the sums referred to in sub-clauses (iv), (v), (vi) and (vii) of clause (a) and in clause (b) of sub-section (2) exceeds the smaller of the following amounts, that is to say,—

- (i) ten per cent of the gross total income (as reduced by any portion thereof on which income-tax is not payable under any provision of this Act and by any amount in respect of which the assessee is entitled to a deduction under any other provision of this Chapter), and
- (ii) five hundred thousand rupees,

then, the amount by which such aggregate exceeds such smaller amount shall be ignored for the purpose of computing the aggregate of the sums in respect of which deduction is to be allowed under sub-section (1)."

Chapter), then the amount in excess of ten per cent of the gross total income shall be ignored for the purpose of computing the aggregate of the sums in respect of which deduction is to be allowed under sub-section (1)].

(5) This section applies to donations to any institution or fund referred to in sub-clause (iv) of clause (a) of sub-section (2), only if it is established in India for a charitable purpose and if it fulfils the following conditions, namely:—

<sup>11</sup>[(i) where the institution or fund derives any income, such income would not be liable to inclusion in its total income under the provisions of sections 11 and 12 or clause (22) <sup>12</sup>[or clause (22A)] <sup>13</sup>[or clause (23)] <sup>14</sup>[or clause (23AA)] <sup>15</sup>[or clause (23C)] of section 10:

<sup>16</sup>[**Provided** that where an institution or fund derives any income, being profits and gains of business, the condition that such income would not be liable to inclusion in its total income under the provisions of section 11 shall not apply in relation to such income, if—

- (a) the institution or fund maintains separate books of account in respect of such business;
  - (b) the donations made to the institution or fund are not used by it, directly or indirectly, for the purposes of such business; and
  - (c) the institution or fund issues to a person making the donation a certificate to the effect that it maintains separate books of account in respect of such business and that the donations received by it will not be used, directly or indirectly, for the purposes of such business;]
- (ii) the instrument under which the institution or fund is constituted does not, or the rules governing the institution or fund do not, contain any provision for the transfer or application at any time of the whole or any part of the income or assets of the institution or fund for any purpose other than a charitable purpose;
- (iii) the institution or fund is not expressed to be for the benefit of any particular religious community or caste;
- (iv) the institution or fund maintains regular accounts of its receipts and expenditure; <sup>17</sup>[“ ”]
- (v) the institution or fund is either constituted as a public charitable trust or is registered under the Societies Registration Act, 1860 (21 of 1860), or under any law corresponding to that Act in force in any part of India or under section 25<sup>18</sup> of the Companies Act, 1956 (1 of 1956), or is

11. Restored to its original provision by the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1-4-1989. Earlier, it was substituted by the Direct Tax Laws (Amendment) Act, 1987, with effect from the same date.

12. Inserted by the Finance Act, 1970, w.e.f. 1-4-1970.

13. Inserted by the Finance Act, 1973, w.e.f. 1-4-1974.

14. Inserted by the Finance Act, 1987, w.e.f. 1-4-1988.

15. Inserted by the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-4-1976.

16. Inserted by the Finance Act, 1983, w.e.f. 1-4-1984.

17. Word “and” omitted by the Finance Act, 1994, w.e.f. 1-4-1994.

18. For text of section 25 of the Companies Act, 1956, see Appendix One.

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<sup>24</sup>[(5A) Where assessment year in respect of which any other provisions of this section apply, the assessee shall be deemed to be a member of a caste or community for the purposes of clause (5).]

<sup>25</sup>[*Explanation*—Where the assessee is a member of a caste or community for the purposes of clause (5), the deduction to which he is entitled under this section shall be computed on the basis of the total income of the assessee either or both as a member of a caste or community and as a member of a caste or community.]

<sup>26</sup>[(i) that, in computing the total income of the assessee, the income of the institution or fund shall be included in the total income of the assessee if the institution or fund is a member of a caste or community for the purposes of clause (5).]

(ii) that, in computing the total income of the assessee, the income of the institution or fund shall be included in the total income of the assessee if the institution or fund is a member of a caste or community for the purposes of clause (5).]

19. Inserted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1987.

20. Inserted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1987.

21. Inserted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1987.

22. See rule 11AA.

23. Substituted for clause (5) by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1987.

24. Inserted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1987.

25. Substituted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1987.

26. Restored to its original provision by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1987.

27. Inserted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1987.

28. Inserted *ibid*.

a University established by law, or is any other educational institution recognised by the Government or by a University established by law, or affiliated to any University established by law,<sup>19</sup>[or is an institution approved by the Central Government for the purposes of clause (23) of section 10,] or is an institution financed wholly or in part by the Government or a local authority;<sup>20</sup>[and]

<sup>21</sup>[(vi) in relation to donations made after the 31st day of March, 1992, the institution or fund is for the time being approved by the Commissioner in accordance with the rules<sup>22</sup> made in this behalf:

**Provided** that any approval shall have effect for such assessment year or years, not exceeding <sup>23</sup>[five] assessment years, as may be specified in the approval.]

<sup>24</sup>[(5A) Where a deduction under this section is claimed and allowed for any assessment year in respect of any sum specified in sub-section (2), the sum in respect of which deduction is so allowed shall not qualify for deduction under any other provision of this Act for the same or any other assessment year.]

*Explanation 1.*—An institution or fund established for the benefit of Scheduled Castes, backward classes, Scheduled Tribes or of women and children shall not be deemed to be an institution or fund expressed to be for the benefit of a religious community or caste within the meaning of clause (iii) of sub-section (5).

<sup>25</sup>[*Explanation 2.*—For the removal of doubts, it is hereby declared that a deduction to which the assessee is entitled in respect of any donation made to an institution or fund to which sub-section (5) applies shall not be denied merely on either or both of the following grounds, namely:—

<sup>26</sup>[(i) that, subsequent to the donation, any part of the income of the institution or fund has become chargeable to tax due to non-compliance with any of the provisions of section 11, <sup>27</sup>[section 12 or section 12A];

(ii) that, under clause (c) of sub-section (1) of section 13, the exemption under section 11 <sup>28</sup>[or section 12] is denied to the institution or fund in relation to any income arising to it from any investment referred to in

19. Inserted by the Finance Act, 1973, w.e.f. 1-4-1974. Restored to its original expression by the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1-4-1989. Earlier, it was omitted by the Direct Tax Laws (Amendment) Act, 1987, with effect from the same date.

20. Inserted by the Finance Act, 1994, w.e.f. 1-4-1994.

21. Inserted by the Finance (No. 2) Act, 1991, w.e.f. 1-10-1991.

22. See rule 11AA and Form No. 10G.

23. Substituted for "three" by the Finance Act, 1993, w.e.f. 1-4-1993.

24. Inserted by the Finance (No. 2) Act, 1980, with retrospective effect from 1-4-1962.

25. Substituted by the Finance Act, 1970, w.e.f. 1-4-1971.

26. Restored to its original provision by the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1-4-1989. Earlier, clauses (i) and (ii) were substituted by the Direct Tax Laws (Amendment) Act, 1987, with effect from the same date.

27. Inserted by the Finance Act, 1972, w.e.f. 1-4-1973.

28. Inserted *ibid*.

clause (h) of sub-section (2) of section 13 where the aggregate of the funds invested by it in a concern referred to in the said clause (h) does not exceed five per cent of the capital of that concern.]

*Explanation 3.*—In this section, "charitable purpose" does not include any purpose the whole or substantially the whole of which is of a religious nature.

<sup>29</sup>[*Explanation 4.*—For the purposes of this section, an association approved by the Central Government for the purposes of clause (23) of section 10 shall also be deemed to be an institution, and every association or institution approved by the Central Government for the purposes of the said clause shall be deemed to be an institution established in India for a charitable purpose.]

<sup>30</sup>[*Explanation 5.*—For the removal of doubts, it is hereby declared that no deduction shall be allowed under this section in respect of any donation unless such donation is of a sum of money.]

(6) <sup>31</sup>[\* \* \*]

<sup>32</sup>[**Deduction in respect of rents paid.**

<sup>33</sup>**80GG.** In computing the total income of an assessee, not being an assessee having any income falling within clause (13A) of section 10, there shall be deducted any expenditure incurred by him in excess of ten per cent of his total income towards payment of rent (by whatever name called) in respect of any furnished or unfurnished accommodation occupied by him for the purposes of his own residence, <sup>34</sup>[to the extent to which such excess expenditure does not exceed one thousand rupees per month or twenty-five per cent of his total income for the year, whichever is less], and subject to such other conditions or limitations as may be prescribed<sup>35</sup>, having regard to the area or place in which such accommodation is situated and other relevant considerations:

29. Inserted by the Finance Act, 1973, w.e.f. 1-4-1974. Restored to its original provision by the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1-4-1989. Earlier it was omitted by the Direct Tax Laws (Amendment) Act, 1987, with effect from the same date.

30. Inserted by the Finance Act, 1976, w.e.f. 1-4-1976.

31. Omitted by the Finance Act, 1968, w.e.f. 1-4-1969.

32. Inserted by the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-4-1976.

33. See also Circular No. 327, dated 8-2-1982. For details, see Taxmann's Master Guide to Income-tax Act.

34. Substituted for "to the extent to which such excess expenditure does not exceed four hundred rupees per month or fifteen per cent of his total income for the year, whichever is less" by the Finance Act, 1986, w.e.f. 1-4-1987.  
"Four" was substituted for "three" by the Finance Act, 1982, w.e.f. 1-4-1983.

35. To claim deduction under section 80GG, rule 11B provides that the residential accommodation in question should be situated in one of the following areas:

(A) *Municipal areas (excluding urban agglomeration)* - Bombay, Calicut, Cochin, Ghaziabad, Hubli-Dharwar, Madras, Sholapur, Trivandrum and Vishakapatnam.

(B) *Municipal areas (including urban agglomeration)* - Agra, Ahmedabad, Allahabad, Amritsar, Bangalore, Bhopal, Calcutta, Coimbatore, Delhi, Faridabad, Gwalior (Laskar), Hyderabad, Indore, Jabalpur, Jaipur, Kanpur, Lucknow, Ludhiana City, Madurai, Nagpur, Patna, Poona, Srinagar, Surat, Vadodara and Varanasi.

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declaration in writing that the provisions of this section may not be made applicable to him, the provisions of this section shall not apply to him for any of the relevant assessment years.

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

- (i) "hundred per cent export-oriented undertaking" means an undertaking which has been approved as a hundred per cent export-oriented undertaking by the Board appointed in this behalf by the Central Government in exercise of the powers conferred by section 14<sup>43</sup> of the Industries (Development and Regulation) Act, 1951 (65 of 1951), and the rules made under that Act;
- (ii) "relevant assessment years" means the five consecutive assessment years specified by the assessee at his option under sub-section (3) or sub-section (5), as the case may be;
- (iii) "manufacture" includes any—
  - (a) process, or
  - (b) assembling, or
  - (c) recording of programmes on any disc, tape, perforated media or other information storage device;

<sup>44</sup>[(iv) "produce", in relation to any article or thing referred to in clause (i) of sub-section (2) includes production of computer programmes.]

<sup>45</sup>Income from property held for charitable or religious purposes.

<sup>46</sup>11. (1) Subject to the provisions of sections 60 to 63, the following income shall not be included in the total income of the previous year of the person in receipt of the income—

- <sup>47</sup>[(a) income derived from property held under trust wholly for charitable or religious purposes, to the extent to which such income is applied to such purposes in India; and, where any such income is accumulated or set apart for application to such purposes in India, to the extent to which the income so accumulated or set apart is not in excess of twenty-five per cent of the income from such property;

43. For text of section 14 of the Industries (Development and Regulation) Act, 1951, see Appendix One.

44. Inserted by the Finance Act, 1994, w.e.f. 1-4-1994.

45. Section 11, which was omitted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989, was reintroduced by the Direct Tax Laws (Amendment) Act, 1989, with effect from the same date with modifications.

46. See also Circular No. 100, dated 24-1-1973, Circular No. 273, dated 3-6-1980, Circular No. 52, dated 30-12-1970, Circular No. 12-P (LXX-7 of 1968), dated 26-11-1968, Circular No. 5-P (LXX-6 of 1968), dated 19-6-1968, Circular No. 566, dated 17-7-1990, Circular No. 584, dated 13-11-1990 and relevant extracts from Official Minutes of Twelfth Meeting of Direct Taxes Advisory Committee (Central) held in New Delhi on 17-8-1968. For details, see Taxmann's Master Guide to Income-tax Act.

For relevant case laws, see Taxmann's Master Guide to Income-tax Act.

47. Substituted by the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-4-1976. Earlier, clauses (a) and (b) were amended by the Finance Act, 1970, w.e.f. 1-4-1971.



S. 11

S. 11 CH. III - INCOMES WHICH DO NOT FORM PART OF TOTAL INCOME 1.87

(b) income derived from property held under trust in part only for such purposes, the trust having been created before the commencement of this Act, to the extent to which such income is applied to such purposes in India; and, where any such income is finally set apart for application to such purposes in India, to the extent to which the income so set apart is not in excess of twenty-five per cent of the income from such property;]

(c) income <sup>48</sup>[derived] from property held under trust—

(i) created on or after the 1st day of April, 1952, for a charitable purpose which tends to promote international welfare in which India is interested, to the extent to which such income is applied to such purposes outside India, and

(ii) for charitable or religious purposes, created before the 1st day of April, 1952, to the extent to which such income is applied to such purposes outside India:

**Provided** that the Board, by general or special order, has directed in either case that it shall not be included in the total income of the person in receipt of such income;

<sup>49</sup>[(d) income in the form of voluntary contributions made with a specific direction that they shall form part of the corpus of the trust or institution.]

<sup>50</sup>[Explanation.—For the purposes of clauses (a) and (b),—

(1) in computing the twenty-five per cent of the income which may be accumulated or set apart, any such voluntary contributions as are referred to in section 12 shall be deemed to be part of the income;

(2) if, in the previous year, the income applied to charitable or religious purposes in India falls short of seventy-five per cent of the income derived during that year from property held under trust, or, as the case may be, held under trust in part, by any amount—

(i) for the reason that the whole or any part of the income has not been received during that year, or

(ii) for any other reason,

then—

(a) in the case referred to in sub-clause (i), so much of the income applied to such purposes in India during the previous year in which the income is received or during the previous year immediately following as does not exceed the said amount, and

(b) in the case referred to in sub-clause (ii), so much of the income applied to such purposes in India during the previous year immediately following the previous year in which the income was derived as does not exceed the said amount,

48. Inserted by the Finance Act, 1972, w.e.f. 1-4-1973.

49. Inserted by the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1-4-1989.

50. Substituted by the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-4-1976. Earlier, the Explanation was also substituted by the Finance Act, 1970, w.e.f. 1-4-1971.

may, at the option of the person in receipt of the income (such option to be exercised in writing before the expiry of the time allowed under sub-section (1)<sup>51</sup> of section 139<sup>52</sup> for furnishing the return of income) be deemed to be income applied to such purposes during the previous year in which the income was derived; and the income so deemed to have been applied shall not be taken into account in calculating the amount of income applied to such purposes, in the case referred to in sub-clause (i), during the previous year in which the income is received or during the previous year immediately following, as the case may be, and, in the case referred to in sub-clause (ii), during the previous year immediately following the previous year in which the income was derived.]

<sup>53</sup>[(1A) For the purposes of sub-section (1),—

- (a) where a capital asset, being property held under trust wholly for charitable or religious purposes, is transferred and the whole or any part of the net consideration is utilised for acquiring another capital asset to be so held, then, the capital gain arising from the transfer shall be deemed to have been applied to charitable or religious purposes to the extent specified hereunder, namely:—
- (i) where the whole of the net consideration is utilised in acquiring the new capital asset, the whole of such capital gain;
  - (ii) where only a part of the net consideration is utilised for acquiring the new capital asset, so much of such capital gain as is equal to the amount, if any, by which the amount so utilised exceeds the cost of the transferred asset;
- (b) where a capital asset, being property held under trust in part only for such purposes, is transferred and the whole or any part of the net consideration is utilised for acquiring another capital asset to be so held, then, the appropriate fraction of the capital gain arising from the transfer shall be deemed to have been applied to charitable or religious purposes to the extent specified hereunder, namely:—
- (i) where the whole of the net consideration is utilised in acquiring the new capital asset, the whole of the appropriate fraction of such capital gain;
  - (ii) in any other case, so much of the appropriate fraction of the capital gain as is equal to the amount, if any, by which the appropriate fraction of the amount utilised for acquiring the new asset exceeds the appropriate fraction of the cost of the transferred asset.

*Explanation.*—In this sub-section,—

- (i) "appropriate fraction" means the fraction which represents the extent

51. "or sub-section (2)" omitted by the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1-4-1989.

52. "whether fixed originally or on extension" omitted, *ibid.*

53. Inserted by the Finance (No. 2) Act, 1971, with retrospective effect from 1-4-1962.

to which the income derived from the capital asset transferred was immediately before such transfer applicable to charitable or religious purposes;

- (ii) "cost of the transferred asset" means the aggregate of the cost of acquisition (as ascertained for the purposes of sections 48 and 49) of the capital asset which is the subject of the transfer and the cost of any improvement thereto within the meaning assigned to that expression in sub-clause (b) of clause (1) of section 55;
- (iii) "net consideration" means the full value of the consideration received or accruing as a result of the transfer of the capital asset as reduced by any expenditure incurred wholly and exclusively in connection with such transfer.]

<sup>54</sup>[(1B) Where any income in respect of which an option is exercised under clause (2) of the *Explanation* to sub-section (1) is not applied to charitable or religious purposes in India during the period referred to in sub-clause (a) or, as the case may be, sub-clause (b), of the said clause, then, such income shall be deemed to be the income of the person in receipt thereof—

- (a) in the case referred to in sub-clause (i) of the said clause, of the previous year immediately following the previous year in which the income was received; or
- (b) in the case referred to in sub-clause (ii) of the said clause, of the previous year immediately following the previous year in which the income was derived.]

<sup>55</sup>[(2) <sup>56</sup>Where seventy-five per cent of the income referred to in clause (a) or clause (b) of sub-section (1) read with the *Explanation* to that sub-section is not applied, or is not deemed to have been applied, to charitable or religious purposes in India during the previous year but is accumulated or set apart, either in whole or in part, for application to such purposes in India, such income so accumulated or set apart shall not be included in the total income of the previous year of the person in receipt of the income, provided the following conditions are complied with, namely:—]

- (a) such person specifies, by notice in writing given to the <sup>57</sup>[Assessing] Officer in the prescribed<sup>58</sup> manner, the purpose for which the income is being accumulated or set apart and the period for which the income is to be accumulated or set apart, which shall in no case exceed ten years;

54. Inserted by the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-4-1976.

55. Substituted by the Finance Act, 1970, w.e.f. 1-4-1971.

56. Substituted for the portion beginning with "Where any income referred to in" and ending with "are complied with, namely:—" by the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-4-1976.

57. Substituted for "Income-tax" by the Direct Tax Laws (Amendment) Act., 1987, w.e.f. 1-4-1988.

58. See rule 17 and Form No. 10 for notice of accumulation of income by charitable trust or institution [to be furnished before expiry of time allowed under section 139(1)].

<sup>59</sup>[(b) the money so accumulated or set apart is invested or deposited in the forms or modes specified in sub-section (5)]:]

<sup>60</sup>[Provided that in computing the period of ten years referred to in clause (a), the period during which the income could not be applied for the purpose for which it is so accumulated or set apart, due to an order or injunction of any court, shall be excluded.]

<sup>61</sup>[(3) Any income referred to in sub-section (2) which—

(a) is applied to purposes other than charitable or religious purposes as aforesaid or ceases to be accumulated or set apart for application thereto, or

<sup>62</sup>[(b) ceases to remain invested or deposited in any of the forms or modes specified in sub-section (5), or]

(c) is not utilised for the purpose for which it is so accumulated or set apart during the period referred to in clause (a) of that sub-section or in the year immediately following the expiry thereof;

shall be deemed to be the income of such person of the previous year in which it is so applied or ceases to be so accumulated or set apart or ceases to remain so invested or deposited or, as the case may be, of the previous year immediately following the expiry of the period aforesaid.]

<sup>63</sup>[(3A) Notwithstanding anything contained in sub-section (3), where due to circumstances beyond the control of the person in receipt of the income, any income invested or deposited in accordance with the provisions of clause (b) of sub-section (2) cannot be applied for the purpose for which it was accumulated or set apart, the <sup>64</sup>[Assessing] Officer may, on an application made to him in this behalf, allow such person to apply such income for such other charitable or religious purpose in India as is specified in the application by such person and as is in conformity with the objects of the trust; and thereupon the provisions of sub-section (3) shall apply as if the purpose specified by such person in the application under this sub-section were a purpose specified in the notice given to the <sup>64</sup>[Assessing] Officer under clause (a) of sub-section (2).]

(4) For the purposes of this section "property held under trust" includes a business undertaking so held, and where a claim is made that the income of any such undertaking shall not be included in the total income of the persons in receipt thereof, the <sup>64</sup>[Assessing] Officer shall have power to determine the income of such undertaking in accordance with the provisions of this Act relating to assessment; and where any income so determined is in excess of the

59. Substituted by the Finance Act, 1983, w.e.f. 1-4-1983. Original clause (b) was earlier amended by the Finance (No. 2) Act, 1977, w.e.f. 1-4-1978.

60. Inserted by the Finance Act, 1993, w.r.e.f. 1-4-1962.

61. Substituted by the Finance Act, 1970, w.e.f. 1-4-1971.

62. Substituted by the Finance Act, 1983, w.e.f. 1-4-1983.

63. Inserted by the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-4-1976.

64. Substituted for "Income-tax" by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988.

income as shown in the accounts of the undertaking, such excess shall be deemed to be applied to purposes other than charitable or religious purposes<sup>65</sup> [ . . . ]

<sup>66</sup>[(4A) Sub-section (1) or sub-section (2) or sub-section (3) or sub-section (3A) shall not apply in relation to any income of a trust or an institution, being profits and gains of business, unless the business is incidental to the attainment of the objectives of the trust or, as the case may be, institution, and separate books of account are maintained by such trust or institution in respect of such business.]

<sup>67</sup>[(5) The forms and modes of investing or depositing the money referred to in clause (b) of sub-section (2) shall be the following, namely:—

- (i) investment in<sup>69</sup> savings certificates as defined in clause (c) of section 2 of the Government Savings Certificates Act, 1959 (46 of 1959), and any other securities or certificates issued by the Central Government under the Small Savings Schemes of that Government;
- (ii) deposit in any account with the Post Office Savings Bank;
- (iii) deposit in any account with a scheduled bank or a co-operative society engaged in carrying on the business of banking (including a co-operative land mortgage bank or a co-operative land development bank).

*Explanation*.—In this clause, "scheduled bank" means the State Bank of India constituted under the State Bank of India Act, 1955 (23 of 1955), a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959), a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition

65. "and accordingly chargeable to tax within the meaning of sub-section (3)" omitted by the Finance Act, 1970; w.e.f. 1-4-1971.

66. Substituted by the Finance (No. 2) Act, 1991, w.e.f. 1-4-1992. Prior to substitution, sub-section (4A), as inserted by the Finance Act, 1983, w.e.f. 1-4-1984, read as under:  
 "(4A) Sub-section (1) or sub-section (2) or sub-section (3) or sub-section (3A) shall not apply in relation to any income, being profits and gains of business, unless—

- (a) the business is carried on by a trust wholly for public religious purposes and the business consists of printing and publication of books or publication of books or is of a kind notified by the Central Government in this behalf in the Official Gazette; or
- (b) the business is carried on by an institution wholly for charitable purposes and the work in connection with the business is mainly carried on by the beneficiaries of the institution,

and separate books of account are maintained by the trust or institution in respect of such business."

67. Inserted by the Finance Act, 1983, w.e.f. 1-4-1983.

68. See also Circular No. 566, dated 17-7-1990. For details, see Taxmann's Master Guide to Income-tax Act.

69. Clause (c) of section 2 of the Government Savings Certificates Act, 1959 defines "savings certificates" as under:

'(c) "savings certificate" means a savings certificate to which this Act applies.

Section 1(3) provides that the Act would apply to such class of savings certificates as the Central Government specifies by notification in the Official Gazette.

- and Transfer of Undertakings) Act, 1970 (5 of 1970), or under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (40 of 1980), or any other bank being a bank included in the Second Schedule to the Reserve Bank of India Act, 1934 (2 of 1934);
- (iv) investment in units of the Unit Trust of India established under the Unit Trust of India Act, 1963 (52 of 1963);
- (v) investment in any security for money created and issued by the Central Government or a State Government;
- (vi) investment in debentures issued by, or on behalf of, any company or corporation both the principal whereof and the interest whereon are fully and unconditionally guaranteed by the Central Government or by a State Government;
- (vii) investment or deposit in any <sup>70</sup>[public sector company];
- (viii) deposits with or investment in any bonds issued by a financial corporation which is engaged in providing long-term finance for industrial development in India and which is approved by the Central Government for the purposes of clause (viii) of sub-section (1) of section 36;
- (ix) deposits with or investment in any bonds issued by a public company formed and registered in India with the main object of carrying on the business of providing long-term finance for construction or purchase of houses in India for residential purposes and which is approved by the Central Government for the purposes of clause (viii) of sub-section (1) of section 36;
- (x) investment in immovable property.
- Explanation.*—“Immovable property” does not include any machinery or plant (other than machinery or plant installed in a building for the convenient occupation of the building) even though attached to, or permanently fastened to, anything attached to the earth;]
- <sup>71</sup>[(xi) deposits with the Industrial Development Bank of India established under the Industrial Development Bank of India Act, 1964 (18 of 1964).]
- <sup>72</sup>[(xii) any other form or mode of investment or deposit as may be prescribed.<sup>73</sup>]

70. Substituted for “Government company as defined in section 617 of the Companies Act, 1956 (1 of 1956)” by the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1-4-1989.

71. Inserted by the Finance Act, 1984, w.e.f. 1-4-1985.

72. Inserted by the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1-4-1989.

73. Rule 17C specifies the following ‘other modes’ (1) Investments in units issued under any scheme of mutual fund referred to in section 10(23D), and (2) Any transfer of deposits to Public Account of India.

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74. Reintroduced section 12A with effect from the same date.

75. See also Circular No. 10, Income-tax A.

76. For relevant circulars.

77. Reintroduced section 12A with effect from the same date.

78. See Circular No. 10, Income-tax A.

79. For relevant circulars.

80. See rule 17C of the Income-tax Rules, 1962, which applies to religious trusts/institutions created by deed or otherwise than during any year of application of the Act prior to the year in which application of the Act.

81. Substituted for section 11(1)(c) by the Finance Act, 1984, w.e.f. 1-4-1985.

82. Substituted for section 11(1)(c) by the Finance Act, 1984, w.e.f. 1-4-1985. “Provided that the application of the Act shall not be affected by the provisions of section 11(1)(c) as substituted by the Finance Act, 1984, w.e.f. 1-4-1985.”

**<sup>74</sup>[Income of trusts or institutions from contributions.**

**<sup>75</sup>12.** <sup>76</sup>Any voluntary contributions received by a trust created wholly for charitable or religious purposes or by an institution established wholly for such purposes (not being contributions made with a specific direction that they shall form part of the corpus of the trust or institution) shall for the purposes of section 11 be deemed to be income derived from property held under trust wholly for charitable or religious purposes and the provisions of that section and section 13 shall apply accordingly.]

**<sup>77</sup>[Conditions as to registration of trusts, etc.**

**<sup>78</sup>12A.** <sup>79</sup>The provisions of section 11 and section 12 shall not apply in relation to the income of any trust or institution unless the following conditions are fulfilled, namely:—

- (a) the person in receipt of the income has made an application for registration of the trust or institution in the prescribed form<sup>80</sup> and in the prescribed manner to the <sup>81</sup>[Chief Commissioner or Commissioner] before the 1st day of July, 1973, or before the expiry of a period of one year from the date of the creation of the trust or the establishment of the institution, whichever is later:

<sup>82</sup>[Provided that where an application for registration of the trust or

74. Reintroduced by the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1-4-1989. Earlier, section 12 was omitted by the Direct Tax Laws (Amendment) Act, 1987, with effect from the same date. Original section 12 was substituted by the Finance Act, 1972, w.e.f. 1-4-1973.

75. See also Circular No. 584, dated 13-11-1990. For details, see Taxmann's Master Guide to Income-tax Act.

76. For relevant case laws, see Taxmann's Master Guide to Income-tax Act.

77. Reintroduced by the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1-4-1989. Earlier, section 12A was omitted by the Direct Tax Laws (Amendment) Act, 1987, with effect from the same date. Original section 12A was inserted by the Finance Act, 1972, w.e.f. 1-4-1973.

78. See Circular No. 143, dated 20-8-1974. For details, see Taxmann's Master Guide to Income-tax Act.

79. For relevant case laws, see Taxmann's Master Guide to Income-tax Act.

80. See rule 17A and Form No. 10A for form of application for registration of charitable/religious trust, and the necessary accompanying documents, viz. 1. Original copy of instrument creating the trust/institution, i.e., trust deed, with one copy thereof, where trust/institution is created under an instrument. Certified copy in lieu of original copy of trust deed can also be accepted by the Commissioner. 2. Documents evidencing the creation of trust/institution, with one copy thereof, where trust/institution is created otherwise than under an instrument. 3. Where the trust/institution has been in existence during any year(s) prior to financial year in which application for registration is made, the application should be accompanied by two copies of accounts of trust/institution relating to prior year or years, not being more than 3 years immediately preceding the year in which application is made.

81. Substituted for "Commissioner" by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988.

82. Substituted for the following by the Finance (No. 2) Act, 1991, w.e.f. 1-10-1991:

"Provided that the Chief Commissioner or Commissioner may, in his discretion, admit an application for the registration of any trust or institution after the expiry of the period aforesaid;"

institution is made after the expiry of the period aforesaid, the provisions of sections 11 and 12 shall apply in relation to the income of such trust or institution,—

- (i) from the date of the creation of the trust or the establishment of the institution if the Chief Commissioner or Commissioner is, for reasons to be recorded in writing, satisfied that the person in receipt of the income was prevented from making the application before the expiry of the period aforesaid for sufficient reasons;
  - (ii) from the 1st day of the financial year in which the application is made, if the Chief Commissioner or Commissioner is not so satisfied;]
- (b) where the total income of the trust or institution as computed under this Act without giving effect to the provisions of section 11 and section 12 exceeds <sup>83</sup>[twenty-five] thousand rupees in any previous year, the accounts of the trust or institution for that year have been audited by an accountant as defined in the *Explanation* below subsection (2) of section 288 and the person in receipt of the income furnishes along with the return of income for the relevant assessment year the report of such audit in the prescribed form<sup>84</sup> duly signed and verified by such accountant and setting forth such particulars as may be prescribed.]

<sup>85</sup>[Section 11 not to apply in certain cases.

<sup>86</sup>13. (1) Nothing contained in section 11 <sup>87</sup>[or section 12] shall operate so as to exclude from the total income of the previous year of the person in receipt thereof—

- (a) any part of the income from the property held under a trust for private religious purposes which does not enure for the benefit of the public;
- (b) in the case of a trust for charitable purposes or a charitable institution created or established after the commencement of this Act, any income thereof if the trust or institution is created or established for the benefit of any particular religious community or caste;

83. Word "fifty" shall be substituted for "twenty-five" by the Finance Act, 1994, w.e.f. 1-4-1995.

84. See rule 17B and Form No. 10B for audit report in case of trust/institution.

85. Reintroduced by the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1-4-1989. Earlier, it was omitted by the Direct Tax Laws (Amendment) Act, 1987, with effect from the same date. Original section 13 was substituted by the Finance Act, 1970, w.e.f. 1-4-1971, and prior to its substitution, it was amended by the Finance Act, 1966, w.e.f. 1-4-1966 and the Finance Act, 1963, with retrospective effect from 1-4-1962.

86. See also Circular No. 335, dated 13-4-1982 and Circular No. 596, dated 15-3-1991. For details, see Taxmann's Master Guide to Income-tax Act.

For relevant case laws, see Taxmann's Master Guide to Income-tax Act.

87. Inserted by the Finance Act, 1972, w.e.f. 1-4-1973.



(bb) <sup>88</sup>[\*\*\*]

(c) in the case of a trust for charitable or religious purposes or a charitable or religious institution, any income thereof—

(i) if such trust or institution has been created or established after the commencement of this Act and under the terms of the trust or the rules governing the institution, any part of such income accrues, or

(ii) if any part of such income or any property of the trust or the institution (whenever created or established) is during the previous year used or applied,

directly or indirectly for the benefit of any person referred to in sub-section (3):

**Provided** that in the case of a trust or institution created or established before the commencement of this Act, the provisions of sub-clause (ii) shall not apply to any use or application, whether directly or indirectly, of any part of such income or any property of the trust or institution for the benefit of any person referred to in sub-section (3), if such use or application is by way of compliance with a mandatory term of the trust or a mandatory rule governing the institution:

**Provided further** that in the case of a trust for religious purposes or a religious institution (whenever created or established) or a trust for charitable purposes or a charitable institution created or established before the commencement of this Act, the provisions of sub-clause (ii) shall not apply to any use or application, whether directly or indirectly, of any part of such income or any property of the trust or institution for the benefit of any person referred to in sub-section (3) insofar as such use or application relates to any period before the 1st day of June, 1970:

<sup>89</sup>[(d) <sup>90</sup>in the case of a trust for charitable or religious purposes or a charitable or religious institution, any income thereof, if for any period during the previous year—

(i) any funds of the trust or institution are invested or deposited after the 28th day of February, 1983 otherwise than in any one or more of the forms or modes specified in sub-section (5) of section 11; or

88. Omitted by the Finance Act, 1983, w.e.f. 1-4-1984. Original clause (bb), as inserted by the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-4-1977, read as under:

“(bb) in the case of a charitable trust or institution for the relief of the poor, education or medical relief, which carries on any business, any income derived from such business, unless the business is carried on in the course of the actual carrying out of a primary purpose of the trust or institution.”

89. Substituted by the Finance Act, 1983, w.e.f. 1-4-1983. Original clause was inserted by the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-4-1977. It was later on amended by the Finance (No. 2) Act, 1977, w.e.f. 1-4-1978 and by the Finance Act, 1982, w.e.f. 1-4-1982.

90. See also Circular No. 596, dated 15-3-1991. For details, see Taxmann's Master Guide to Income-tax Act.

- (ii) any funds of the trust or institution invested or deposited before the 1st day of March, 1983 otherwise than in any one or more of the forms or modes specified in sub-section (5) of section 11 continue to remain so invested or deposited after the 30th day of November, 1983; or
- (iii) any shares in a company [not being a <sup>91</sup>Government company as defined in section 617 of the Companies Act, 1956 (1 of 1956), or a corporation established by or under a Central, State or Provincial Act] are held by the trust or institution after the 30th day of November, 1983:

Provided that nothing in this clause shall apply in relation to—

- (i) any assets held by the trust or institution where such assets form part of the corpus of the trust or institution as on the 1st day of June, 1973 <sup>92</sup>[“ ”];
- <sup>93</sup>[(ia) any accretion to the shares, forming part of the corpus mentioned in clause (i), by way of bonus shares allotted to the trust or institution;]
- (ii) any assets (being debentures issued by, or on behalf of, any company or corporation) acquired by the trust or institution before the 1st day of March, 1983;
- <sup>94</sup>[(iia) any asset, not being an investment or deposit in any of the forms or modes specified in sub-section (5) of section 11, where such asset is not held by the trust or institution, otherwise than in any of the forms or modes specified in sub-section (5) of section 11, after the expiry of one year from the end of the previous year in which such asset is acquired or the 31st day of March, <sup>95</sup>[1993], whichever is later;]
- (iii) any funds representing the profits and gains of business, being profits and gains of any previous year relevant to the assessment year commencing on the 1st day of April, 1984 or any subsequent assessment year.

*Explanation.*—Where the trust or institution has any other income in addition to profits and gains of business, the provisions of clause (iii) of this proviso shall not apply unless the trust or institution maintains separate books of account in respect of such business.]

<sup>96</sup>[*Explanation.*—For the purposes of sub-clause (ii) of clause (c), in determining whether any part of the income or any property of any trust or institution is during the previous year used or applied, directly or indirectly, for the benefit of

91. For definition of “Government company” see footnote 2 on page 1.18 ante.

92. Words “and such assets were not purchased by the trust or institution or acquired by it by conversion of, or in exchange for, any other asset” omitted by the Finance Act, 1992, w.r.e.f. 1-4-1983.

93. Inserted, *ibid*.

94. Inserted by the Finance (No. 2) Act, 1991, w.r.e.f. 1-4-1983.

95. Substituted for “1992” by the Finance Act, 1992, w.e.f. 1-4-1992.

96. Inserted by the Finance Act, 1972, w.e.f. 1-4-1973.

any person referred to in sub-section (3), in so far as such use or application relates to any period before the 1st day of July, 1972, no regard shall be had to the amendments made to this section by section 7 [other than sub-clause (ii) of clause (a) thereof] of the Finance Act, 1972.]

(2) Without prejudice to the generality of the provisions of clause (c) <sup>97</sup>[and clause (d)] of sub-section (1), the income or the property of the trust or institution or any part of such income or property shall, for the purposes of that clause, be deemed to have been used or applied for the benefit of a person referred to in sub-section (3),—

- (a) if any part of the income or property of the trust or institution is, or continues to be, lent to any person referred to in sub-section (3) for any period during the previous year without either adequate security or adequate interest or both;
- (b) if any land, building or other property of the trust or institution is, or continues to be, made available for the use of any person referred to in sub-section (3), for any period during the previous year without charging adequate rent or other compensation;
- (c) if any amount is paid by way of salary, allowance or otherwise during the previous year to any person referred to in sub-section (3) out of the resources of the trust or institution for services rendered by that person to such trust or institution and the amount so paid is in excess of what may be reasonably paid for such services;
- (d) if the services of the trust or institution are made available to any person referred to in sub-section (3) during the previous year without adequate remuneration or other compensation;
- (e) if any share, security or other property is purchased by or on behalf of the trust or institution from any person referred to in sub-section (3) during the previous year for consideration which is more than adequate;
- (f) if any share, security or other property is sold by or on behalf of the trust or institution to any person referred to in sub-section (3) during the previous year for consideration which is less than adequate;
- <sup>98</sup>(g) if any income or property of the trust or institution is diverted during the previous year in favour of any person referred to in sub-section (3):

Provided that this clause shall not apply where the income, or the value of the property or, as the case may be, the aggregate of the income and the value of the property, so diverted does not exceed one thousand rupees;

- (h) if any funds of the trust or institution are, or continue to remain, invested for any period during the previous year (not being a period before the 1st day of January, 1971), in any concern in which any person referred to in sub-section (3) has a substantial interest.

97. Inserted by the Finance Act, 1983, w.e.f. 1-4-1983.

98. Substituted by the Finance Act, 1972, w.e.f. 1-4-1973.

(3) The persons referred to in clause (c) of sub-section (1) and sub-section (2) are the following, namely:—

- (a) the author of the trust or the founder of the institution;
- (b) any person who has made a substantial contribution to the trust or institution, <sup>99</sup>[that is to say, any person whose total contribution up to the end of the relevant previous year exceeds <sup>1</sup>[<sup>2</sup>twenty-five] thousand rupees];
- (c) where such author, founder or person is a Hindu undivided family, a member of the family;
- <sup>3</sup>[(cc) any trustee of the trust or manager (by whatever name called) of the institution;]
- (d) any relative of any such author, founder, person, <sup>4</sup>[member, trustee or manager] as aforesaid;
- (e) any concern in which any of the persons referred to in clauses (a), (b), (c) <sup>3</sup>[(cc)] and (d) has a substantial interest.

(4) Notwithstanding anything contained in clause (c) of sub-section (1) <sup>5</sup>[but without prejudice to the provisions contained in clause (d) of that sub-section], in a case where the aggregate of the funds of the trust or institution invested in a concern in which any person referred to in sub-section (3) has a substantial interest, does not exceed five per cent of the capital of that concern, the exemption under section 11 <sup>3</sup>[or section 12] shall not be denied in relation to any income other than the income arising to the trust or the institution from such investment, by reason only that the <sup>6</sup>[funds] of the trust or the institution have been invested in a concern in which such person has a substantial interest.

<sup>7</sup>[(5) Notwithstanding anything contained in clause (d) of sub-section (1), where any assets (being debentures issued by, or on behalf of, any company or corporation) are acquired by the trust or institution after the 28th day of February, 1983 but before the 25th day of July, 1991, the exemption under section 11 or section 12 shall not be denied in relation to any income other than the income arising to the trust or the institution from such assets, by reason only that the funds of the trust or the institution have been invested in such assets if such funds do not continue to remain so invested in such assets after the 31st day of March, 1992.]

99. Inserted by the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-4-1977.

1. Substituted for "five thousand rupees" by the Taxation Laws (Amendment) Act, 1984, w.e.f. 1-4-1985.

2. Word "fifty" shall be substituted for "twenty-five" by the Finance Act, 1994, w.e.f. 1-4-1995.

3. Inserted by the Finance Act, 1972, w.e.f. 1-4-1973.

4. Substituted for "or member", *ibid*.

5. Inserted by the Finance Act, 1983, w.e.f. 1-4-1983.

6. Substituted for "moneys" by the Finance (No. 2) Act, 1971, w.e.f. 1-4-1971.

7. Inserted by the Finance (No. 2) Act, 1991, w.e.f. 1-4-1983. Original sub-section was inserted by the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-4-1976 and omitted by the Finance Act, 1983, w.e.f. 1-4-1983.

(6) <sup>8</sup>["\*"]  
<sup>9</sup>[Explanat  
 "trust" inc  
 "relative",

(i)

(ii)

(iii)

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(6) [“ ”]

[*Explanation 1.*—For the purposes of sections 11, 12, 12A and this section, “trust” includes any other legal obligation and for the purposes of this section “relative”, in relation to an individual, means—

- (i) spouse of the individual;
- (ii) brother or sister of the individual;
- (iii) brother or sister of the spouse of the individual;
- (iv) any lineal ascendant or descendant of the individual;
- (v) any lineal ascendant or descendant of the spouse of the individual;
- (vi) spouse of a person referred to in sub-clause (ii), sub-clause (iii), sub-clause (iv) or sub-clause (v);
- (vii) any lineal descendant of a brother or sister of either the individual or of the spouse of the individual.]

*Explanation 2.*—A trust or institution created or established for the benefit of Scheduled Castes, backward classes, Scheduled Tribes or women and children shall not be deemed to be a trust or institution created or established for the benefit of a religious community or caste within the meaning of clause (b) of sub-section (1).

*Explanation 3.*—For the purposes of this section, a person shall be deemed to have a substantial interest in a concern,—

- (i) in a case where the concern is a company, if its shares (not being shares entitled to a fixed rate of dividend whether with or without a further right to participate in profits) carrying not less than twenty per cent of the voting power are, at any time during the previous year, owned beneficially by such person or partly by such person and partly by one or more of the other persons referred to in sub-section (3);
- (ii) in the case of any other concern, if such person is entitled, or such person and one or more of the other persons referred to in sub-section (3) are entitled in the aggregate, at any time during the previous year, to not less than twenty per cent of the profits of such concern.]

<sup>19</sup>[*Special provision relating to incomes of political parties.*

**13A.** Any income of a political party which is chargeable under the head <sup>11</sup>[“ ”] “Income from house property” or “Income from other sources” or any income by way of voluntary contributions received by a political party from any person shall not be included in the total income of the previous year of such political party:

**Provided that—**

- (a) such political party keeps and maintains such books of account and

8. Omitted by the Finance Act, 1983, w.e.f. 1-4-1983. Original sub-section was inserted by the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-4-1977.

9. Substituted by the Finance Act, 1972, w.e.f. 1-4-1973.

10. Inserted by the Taxation Laws (Amendment) Act, 1978, w.e.f. 1-4-1979.

11. “Interest on securities,” omitted by the Finance Act, 1988, w.e.f. 1-4-1989.