

(2) ⁹³[***]

(3) ⁹⁴[***]

⁹⁵[* * *]

CHAPTER V

INCOME OF OTHER PERSONS, INCLUDED IN ASSESSEE'S TOTAL INCOME

Transfer of income where there is no transfer of assets.

⁹⁶60. All income arising to any person by virtue of a transfer whether revocable or not and whether effected before or after the commencement of this Act shall, where there is no transfer of the assets from which the income arises, be chargeable to income-tax as the income of the transferor and shall be included in his total income.

Revocable transfer of assets.

61. All income arising to any person by virtue of a revocable transfer of assets shall be chargeable to income-tax as the income of the transferor and shall be included in his total income.

Transfer irrevocable for a specified period.

⁹⁶62. (1) The provisions of section 61 shall not apply to any income arising to any person by virtue of a transfer—

(i) by way of trust which is not revocable during the lifetime of the beneficiary, and, in the case of any other transfer, which is not revocable during the lifetime of the transferee ; or

93. Omitted by the Taxation Laws (Amendment & Miscellaneous Provisions) Act, 1986, w.e.f. 1-4-1988. Prior to its omission, sub-section (2) stood as under :

‘(2) When any building, machinery, plant or furniture to which clauses (ii) and (iii) of sub-section (2) of section 56 apply are sold, discarded, demolished or destroyed, the provisions of sub-section (2) of section 41 shall apply, so far as may be, in computing the income of an assessee under section 56 as they apply in computing the income of an assessee under the head “Profits and gains of business or profession”.’

94. Omitted by the Taxation Laws (Amendment & Miscellaneous Provisions) Act, 1986, w.e.f. 1-4-1988. Prior to its omission, sub-section (3) as inserted by the Taxation Laws (Amendment) Act, 1970, w.e.f. 1-4-1971, stood as under :

‘(3) Where any structure or work referred to in sub-section (1A) of section 32 in or in relation to a building to which clause (iii) of sub-section (2) of section 56 applies is sold, discarded, demolished or destroyed or is surrendered as a result of the determination of the lease or other right of occupancy in respect of the building, the provisions of sub-section (2A) of section 41 shall apply, so far as may be, in computing the income of an assessee under section 56 as they apply in computing the income of an assessee under the head “Profits and gains of business or profession”.’

95. Omitted by the Taxation Laws (Amendment & Miscellaneous Provisions) Act, 1986, w.e.f. 1-4-1988. Prior to its omission, the *Explanation* stood as under :

‘*Explanation.* —For the purpose of this section, the expression “sold” shall have the same meaning as in sub-section (1) of section 32.’

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

- (ii) made before the 1st day of April, 1961, which is not revocable for a period exceeding six years :

Provided that the transferor derives no direct or indirect benefit from such income in either case.

(2) Notwithstanding anything contained in sub-section (1), all income arising to any person by virtue of any such transfer shall be chargeable to income-tax as the income of the transferor as and when the power to revoke the transfer arises, and shall then be included in his total income.

“Transfer” and “revocable transfer” defined.

⁹⁷63. For the purposes of sections 60, 61 and 62 and of this section,—

- (a) a transfer shall be deemed to be revocable if—
- (i) it contains any provision for the re-transfer directly or indirectly of the whole or any part of the income or assets to the transferor, or
- (ii) it, in any way, gives the transferor a right to re-assume power directly or indirectly over the whole or any part of the income or assets ;
- (b) “transfer” includes any settlement, trust, covenant, agreement or arrangement.

Income of individual to include income of spouse, minor child, etc.

⁹⁸64. ⁹⁹[(1)] In computing the total income of any individual, there shall be included all such income as arises directly or indirectly—

²[(i) *Omitted by the Finance Act, 1992, w.e.f. 1-4-1993.*]

- (ii) to the spouse of such individual by way of salary, commission, fees or any other form of remuneration whether in cash or in kind from a concern in which such individual has a substantial interest :

³**Provided** that nothing in this clause shall apply in relation to any income arising to the spouse where the spouse possesses technical or professional qualifications and the income is solely attributable to the application of his or her technical or professional knowledge and experience ;]

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

98. See also Letter [F.No. 12/2/63-IT (A-I)], dated 20-11-1963. For details, see Taxmann's Master Guide to Income-tax Act.

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

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

1. Inserted by the Taxation Laws (Amendment) Act, 1970, w.e.f. 1-4-1971.

2. Prior to omission, clause (i) as reintroduced by the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1-4-1989, which was earlier omitted by the Direct Tax Laws (Amendment) Act, 1987, with effect from the same date, read as under :

“(i) to the spouse of such individual from the membership of the spouse in a firm carrying on a business in which such individual is a partner ;”

3. Restored to its original version by the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1-4-1989.

- ⁴[(iii) *Omitted by the Finance Act, 1992, w.e.f. 1-4-1993.*]
- (iv) subject to the provisions of clause (i) of section 27, ⁵[* * *] to the spouse of such individual from assets transferred directly or indirectly to the spouse by such individual otherwise than for adequate consideration or in connection with an agreement to live apart ;
- ⁶[(v) *Omitted by the Finance Act, 1992, w.e.f. 1-4-1993.*]
- (vi) to the son's wife, ⁷[* * *] of such individual, from assets transferred directly or indirectly on or after the 1st day of June, 1973, to the son's wife ⁸[* * *] by such individual otherwise than for adequate consideration; ⁹[* * *]
- (vii) to any person or association of persons from assets transferred directly or indirectly otherwise than for adequate consideration to the person or association of persons by such individual, to the extent to which the income from such assets is for the immediate or deferred benefit of his or her spouse ¹⁰[* * *]; and]
- ¹¹[(viii) to any person or association of persons from assets transferred directly or indirectly on or after the 1st day of June, 1973, otherwise than for adequate consideration, to the person or association of persons by such individual, to the extent to which the income from such assets is for the immediate or deferred benefit of his son's wife ¹²[* * *].]

4. Prior to its omission, clause (iii), as reintroduced by the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1-4-1989, read as under :

“(iii) to a minor child of such individual from the admission of the minor to the benefits of partnership in a firm ;”

5. Words “in a case not falling under clause (i) of this sub-section,” omitted by the Finance Act, 1992, w.e.f. 1-4-1993. Earlier these words were reintroduced by the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1-4-1989.

6. Prior to its omission, clause (v), as amended by the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1-4-1989, read as under :

“(v) subject to the provisions of clause (i) of section 27, in a case not falling under clause (iii) of this sub-section, to a minor child of such individual, from assets transferred directly or indirectly to the minor child by such individual otherwise than for adequate consideration ;”

7. Words “or son's minor child,” omitted by the Finance Act, 1992, w.e.f. 1-4-1993.

8. Words “or son's minor child,” omitted, *ibid*.

9. “and” omitted by the Taxation Laws (Amendment) Act, 1984, w.e.f. 1-4-1985.

10. Words “or minor child or both” omitted by the Finance Act, 1992, w.e.f. 1-4-1993. Earlier these words were amended by the Taxation Laws (Amendment) Act, 1984, w.e.f. 1-4-1985 and Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1-4-1989.

11. Inserted by the Taxation Laws (Amendment) Act, 1984, w.e.f. 1-4-1985.

12. Words “or son's minor child or both” omitted by the Finance Act, 1992, w.e.f. 1-4-1993.

¹³[*Explanation 1.*—For the purposes of clause (ii), the individual in computing whose total income the income referred to in that clause is to be included, shall be the husband or wife whose total income (excluding the income referred to in that clause) is greater ; and where any such income is once included in the total income of either spouse, any such income arising in any succeeding year shall not be included in the total income of the other spouse unless the Assessing Officer is satisfied, after giving that spouse an opportunity of being heard, that it is necessary so to do.]

Explanation 2.—For the purposes of clause (ii), an individual 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 his relatives ;
- (ii) in any other case, if such person is entitled, or such person and one or more of his relatives 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.

Explanation 2A—¹⁴[*Omitted by the Finance Act, 1992, w.e.f. 1-4-1993.*]

13. Substituted for existing *Explanations 1* and *1A* by the Finance Act, 1992, w.e.f. 1-4-1993. Prior to substitution, *Explanations 1* and *1A*, as amended by the Finance Act, 1979, w.e.f. 1-4-1980, the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989 and the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1-4-1989, read as under :

“*Explanation 1.*—For the purposes of clause (i) and clause (ii), the individual, in computing whose total income the income referred to in that clause is to be included, shall be the husband or wife whose total income (excluding the income referred to in that clause) is greater; and, for the purposes of clause (iii), the income of the minor child from the partnership shall be included in the income of that parent whose total income (excluding the income referred to in that clause) is greater; and where any such income is once included in the total income of either spouse or parent, any such income arising in any succeeding year shall not be included in the total income of the other spouse or parent unless the Assessing Officer is satisfied, after giving that spouse or parent an opportunity of being heard, that it is necessary so to do.

Explanation 1A.—For the purposes of clause (i), where the spouse of an individual is a beneficiary under a trust, the income arising to the trustee from the membership of the trustee in a firm carrying on a business in which such individual is a partner shall, to the extent such income is for the immediate or deferred benefit of the spouse of such individual, be deemed to be income arising indirectly to the spouse of such individual from the membership of the spouse in a firm carrying on a business in which such individual is a partner.”

14. Prior to its omission, *Explanation 2A*, as inserted by the Finance Act, 1979, w.e.f. 1-4-1980 and later amended by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989 and the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1-4-1989, read as under :

“*Explanation 2A.*—For the purposes of clause (iii), where the minor child of an individual is a beneficiary under a trust, the income arising to the trustee from the membership of the trustee in a firm shall, to the extent such income is for the benefit of the minor child, be deemed to be income arising indirectly to the minor child from the admission of the minor to the benefits of partnership in a firm.”

¹⁵[*Explanation 3*.—For the purposes of clauses (iv) and (vi), where the assets transferred directly or indirectly by an individual to his spouse or son's wife (hereafter in this *Explanation* referred to as "the transferee") are invested by the transferee,—

- (i) in any business, such investment being not in the nature of contribution of capital as a partner in a firm or, as the case may be, for being admitted to the benefits of partnership in a firm, that part of the income arising out of the business to the transferee in any previous year, which bears the same proportion to the income of the transferee from the business as the value of the assets aforesaid as on the first day of the previous year bears to the total investment in the business by the transferee as on the said day ;
- (ii) in the nature of contribution of capital as a partner in a firm, that part of the interest receivable by the transferee from the firm in any previous year, which bears the same proportion to the interest receivable by the transferee from the firm as the value of investment aforesaid as on the first day of the previous year bears to the total investment by way of capital contribution as a partner in the firm as on the said day,

shall be included in the total income of the individual in that previous year.]

¹⁶[(1A) In computing the total income of any individual, there shall be included all such income as arises or accrues to his minor child ¹⁷[, not being a minor child suffering from any disability of the nature specified in section 80U] :

Provided that nothing contained in this sub-section shall apply in respect of such income as arises or accrues to the minor child on account of any—

- (a) manual work done by him ; or
- (b) activity involving application of his skill, talent or specialised knowledge and experience.

Explanation.—For the purposes of this sub-section, the income of the minor child shall be included,—

- (a) where the marriage of his parents subsists, in the income of that parent whose total income (excluding the income includible under this sub-section) is greater ; or

15. Substituted for existing *Explanation 3* by the Finance Act, 1992, w.e.f. 1-4-1993. Prior to substitution, *Explanation 3*, as amended by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989 and the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1-4-1989, read as under :

'*Explanation 3*.—For the purposes of clauses (iv), (v) and (vi), where the assets transferred directly or indirectly by an individual to his spouse or minor child or son's wife or son's minor child (hereafter in this *Explanation* referred to as "the transferee") are invested by the transferee in any business, that part of the income arising out of the business to the transferee in any previous year, which bears the same proportion to the income of the transferee from the business, as the value of the assets aforesaid as on the 1st day of the previous year bears to the total investment in the business by the transferee as on the said day, shall be included in the total income of the individual in that previous year.'

16. Inserted by the Finance Act, 1992, w.e.f. 1-4-1993.

17. Inserted by the Finance Act, 1994, w.e.f. 1-4-1995.

(b) where the marriage of his parents does not subsist, in the income of that parent who maintains the minor child in the previous year, and where any such income is once included in the total income of either parent, any such income arising in any succeeding year shall not be included in the total income of the other parent, unless the Assessing Officer is satisfied, after giving that parent an opportunity of being heard, that it is necessary so to do.]

¹⁸[(2) Where, in the case of an individual being a member of a Hindu undivided family, any property having been the separate property of the individual has, at any time after the 31st day of December, 1969, been converted by the individual into property belonging to the family through the act of impressing such separate property with the character of property belonging to the family or throwing it ¹⁹[into the common stock of the family or been transferred by the individual, directly or indirectly, to the family otherwise than for adequate consideration (the property so converted or transferred being hereinafter referred to as the converted property)], then, notwithstanding anything contained in any other provision of this Act or in any other law for the time being in force, for the purpose of computation of the total income of the individual under this Act for any assessment year commencing on or after the 1st day of April, 1971,—

(a) the individual shall be deemed to have transferred the converted property, through the family, to the members of the family for being held by them jointly ;

(b) the income derived from the converted property or any part thereof ²⁰[* * *] shall be deemed to arise to the individual and not to the family ;

²¹[(c) where the converted property has been the subject-matter of a partition (whether partial or total) amongst the members of the family, the income derived from such converted property as is received by the spouse ²²[* * *] on partition shall be deemed to arise to the spouse ²²[* * *] from assets transferred indirectly by the individual to the spouse ²²[* * *] and the provisions of sub-section (1) shall, so far as may be, apply accordingly :]

Provided that the income referred to in clause (b) or clause (c) shall, on being included in the total income of the individual, be excluded from the total income of the family or, as the case may be, the spouse ²³[* * *] of the individual.

18. Inserted by the Taxation Laws (Amendment) Act, 1970, w.e.f. 1-4-1971.

19. Substituted for “into the common stock of the family (such property being hereinafter referred to as the converted property)” by the Finance Act, 1979, w.e.f. 1-4-1980.

20. “in so far as it is attributable to the interest of the individual in the property of the family” omitted by the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-4-1976.

21. Substituted, *ibid.*

22. Words “or minor child” omitted by the Finance Act, 1992, w.e.f. 1-4-1993.

23. Words “or minor child” omitted, *ibid.* Earlier word “child” was substituted for “son” by the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-4-1976.

Explanation ²⁴[1].—For the purposes of sub-section (2),—

²⁵[* * *] “property” includes any interest in property, movable or immovable, the proceeds of sale thereof and any money or investment for the time being representing the proceeds of sale thereof and where the property is converted into any other property by any method, such other property.

²⁶[* * *]]

²⁷[*Explanation* 2.—For the purposes of this section, “income” includes loss.]

Liability of person in respect of income included in the income of another person.

65. Where, by reason of the provisions contained in this Chapter or in clause (i) of section 27, the income from any asset or from membership in a firm of a person other than the assessee is included in the total income of the assessee, the person in whose name such asset stands or who is a member of the firm shall, notwithstanding anything to the contrary contained in any other law for the time being in force, be liable, on the service of a notice of demand by the ²⁸[Assessing] Officer in this behalf, to pay that portion of the tax levied on the assessee which is attributable to the income so included, and the provisions of Chapter XVII-D shall, so far as may be, apply accordingly :

Provided that where any such asset is held jointly by more than one person, they shall be jointly and severally liable to pay the tax which is attributable to the income from the assets so included.

CHAPTER VI

**AGGREGATION OF INCOME AND SET OFF OR
CARRY FORWARD OF LOSS**

Aggregation of income

Total income.

66. In computing the total income of an assessee, there shall be included all income on which no income-tax is payable under Chapter VII ²⁹[* * *].

24. Inserted by the Finance Act, 1979, w.e.f. 1-4-1980.

25. “(1)” omitted by the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-4-1976.

26. Clause (2) omitted, *ibid.*

27. Inserted by the Finance Act, 1979, w.e.f. 1-4-1980.

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

29. “and any amount in respect of which the assessee is entitled to a deduction from the amount of income-tax on his total income with which he is chargeable for any assessment year in accordance with, and to the extent provided in, sections 87, 87A and 88” omitted by the Finance (No. 2) Act, 1967, w.e.f. 1-4-1968. Earlier “87A” was inserted in the omitted portion by the Finance Act, 1964, w.e.f. 1-4-1964.

Method of computing a partner's share in the income of the firm.

67. ³⁰[*Omitted by the Finance Act, 1992, w.e.f. 1-4-1993.*]

³¹[**Method of computing a member's share in income of association of persons or body of individuals.**

67A. (1) In computing the total income of an assessee who is a member of an association of persons or a body of individuals wherein the shares of the members are determinate and known [other than a company or a cooperative society or a society 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], whether the net result of the computation of the total income of such association or body is a profit or a loss, his share (whether a net profit or net loss) shall be computed as follows, namely :—

- (a) any interest, salary, bonus, commission or remuneration by whatever name called, paid to any member in respect of the previous year shall be deducted from the total income of the association or body and the

30. Prior to its omission, section 67, as amended by the Finance Act, 1968, w.e.f. 1-4-1969, the Finance (No. 2) Act, 1971, w.e.f. 1-4-1971, the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989 and the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1-4-1989, read as under :

'67. Method of computing a partner's share in the income of the firm.—(1) In computing the total income of an assessee who is a partner of a firm, whether the net result of the computation of total income of the firm is a profit or a loss, his share (whether a net profit or a net loss) shall be computed as follows :—

- (a) any interest, salary, commission or other remuneration paid to any partner in respect of the previous year, and, where the firm is a registered firm or an unregistered firm assessed as a registered firm under clause (b) of section 183, the income-tax, if any, payable by it in respect of the total income of the previous year, shall be deducted from the total income of the firm and the balance ascertained and apportioned among the partners ;
- (b) where the amount apportioned to the partner under clause (a) is a profit, any salary, interest, commission or other remuneration paid to the partner by the firm in respect of the previous year shall be added to that amount, and the result shall be treated as the partner's share in the income of the firm ;
- (c) where the amount apportioned to the partner under clause (a) is a loss, any salary, interest, commission or other remuneration paid to the partner by the firm in respect of the previous year shall be adjusted against that amount, and the result shall be treated as the partner's share in the income of the firm.

(2) The share of a partner in the income or loss of the firm, as computed under sub-section (1) shall, for the purposes of assessment, be apportioned under the various heads of income in the same manner in which the income or loss of the firm has been determined under each head of income.

(3) Any interest paid by a partner on capital borrowed by him for the purposes of investment in the firm shall, in computing his income chargeable under the head "Profits and gains of business or profession" in respect of his share in the income of the firm, be deducted from the share.

(4) If the share of a partner in the income of a registered firm or an unregistered firm assessed as a registered firm under clause (b) of section 183, as computed under this section, is a loss, such loss may be set off, or carried forward and set off, in accordance with the provisions of this Chapter.

Explanation.—In this section, "paid" has the same meaning as is assigned to it in clause (2) of section 43.'

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

balance ascertained and apportioned among the members in the proportions in which they are entitled to share in the income of the association or body ;

- (b) where the amount apportioned to a member under clause (a) is a profit, any interest, salary, bonus, commission or remuneration aforesaid paid to the member by the association or body in respect of the previous year shall be added to that amount, and the result shall be treated as the member's share in the income of the association or body ;
- (c) where the amount apportioned to a member under clause (a) is a loss, any interest, salary, bonus, commission or remuneration aforesaid paid to the member by the association or body in respect of the previous year shall be adjusted against that amount, and the result shall be treated as the member's share in the income of the association or body.

(2) The share of a member in the income or loss of the association or body, as computed under sub-section (1), shall, for the purposes of assessment, be apportioned under the various heads of income in the same manner in which the income or loss of the association or body has been determined under each head of income.

(3) Any interest paid by a member on capital borrowed by him for the purposes of investment in the association or body shall, in computing his share chargeable under the head "Profits and gains of business or profession" in respect of his share in the income of the association or body, be deducted from his share.

Explanation.—In this section, "paid" has the same meaning as is assigned to it in clause (2) of section 43.]

Cash credits.

³²68. ³³Where any sum is found credited in the books of an assessee maintained for any previous year, and the assessee offers no explanation about the nature and source thereof or the explanation offered by him is not, in the opinion of the ³⁴[Assessing] Officer, satisfactory, the sum so credited may be charged to income-tax as the income of the assessee of that previous year.

Unexplained investments.

³⁵69. Where in the financial year immediately preceding the assessment year the assessee has made investments which are not recorded in the books of account, if any, maintained by him for any source of income, and the assessee offers no explanation about the nature and source of the investments or the explanation offered by him is not, in the opinion of the ³⁴[Assessing] Officer,

32. See also Circular No. 5, dated 20-2-1969 and Letter [F.No. 222/7/70-IT (A-I)], dated 5-8-1971. For details, see Taxmann's Master Guide to Income-tax Act.

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

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

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

satisfactory, the value of the investments may be deemed to be the income of the assessee of such financial year.

³⁶[Unexplained money, etc.

³⁷**69A.** Where in any financial year the assessee is found to be the owner of any money, bullion, jewellery or other valuable article and such money, bullion, jewellery or valuable article is not recorded in the books of account, if any, maintained by him for any source of income, and the assessee offers no explanation about the nature and source of acquisition of the money, bullion, jewellery or other valuable article, or the explanation offered by him is not, in the opinion of the ³⁸[Assessing] Officer, satisfactory, the money and the value of the bullion, jewellery or other valuable article may be deemed to be the income of the assessee for such financial year.]

³⁹[Amount of investments, etc., not fully disclosed in books of account.

³⁷**69B.** Where in any financial year the assessee has made investments or is found to be the owner of any bullion, jewellery or other valuable article, and the ³⁸[Assessing] Officer finds that the amount expended on making such investments or in acquiring such bullion, jewellery or other valuable article exceeds the amount recorded in this behalf in the books of account maintained by the assessee for any source of income, and the assessee offers no explanation about such excess amount or the explanation offered by him is not, in the opinion of the ³⁸[Assessing] Officer, satisfactory, the excess amount may be deemed to be the income of the assessee for such financial year.]

⁴⁰[Unexplained expenditure, etc.

⁴¹**69C.** Where in any financial year an assessee has incurred any expenditure and he offers no explanation about the source of such expenditure or part thereof, or the explanation, if any, offered by him is not, in the opinion of the ³⁸[Assessing] Officer, satisfactory, the amount covered by such expenditure or part thereof, as the case may be, may be deemed to be the income of the assessee for such financial year :]

⁴²[*Provided that, notwithstanding anything contained in any other provision of this Act, such unexplained expenditure which is deemed to be the income of the assessee shall not be allowed as a deduction under any head of income.*]

36. Inserted by the Finance Act, 1964, w.e.f. 1-4-1964.

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

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

39. Inserted by the Finance Act, 1965, w.e.f. 1-4-1965.

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

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

42. Inserted by the Finance (No. 2) Act, 1998, w.e.f. **1-4-1999**.

⁴³[**Amount borrowed or repaid on hundi.**]

⁴⁴**69D.** Where any amount is borrowed on a *hundi* from, or any amount due thereon is repaid to, any person otherwise than through an account payee cheque drawn on a bank, the amount so borrowed or repaid shall be deemed to be the income of the person borrowing or repaying the amount aforesaid for the previous year in which the amount was borrowed or repaid, as the case may be :

Provided that, if in any case any amount borrowed on a *hundi* has been deemed under the provisions of this section to be the income of any person, such person shall not be liable to be assessed again in respect of such amount under the provisions of this section on repayment of such amount.

Explanation.—For the purposes of this section, the amount repaid shall include the amount of interest paid on the amount borrowed.]

Set off, or carry forward and set off

⁴⁵[**Set off of loss from one source against income from another source under the same head of income.**]

⁴⁶**70.** ⁴⁷[* * *] Save as otherwise provided in this Act, where the net result for any assessment year in respect of any source falling under any head of income ⁴⁸[* * *] is a loss, the assessee shall be entitled to have the amount of such loss set off against his income from any other source under the same head.

⁴⁹[* * *]

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

44. See also Circular No. 221, dated 6-6-1977 and Circular No. 208, dated 15-11-1976. For details, see Taxmann's Master Guide to Income-tax Act.

45. Substituted by the Finance (No. 2) Act, 1962, w.e.f. 1-4-1962.

46. See also Circular No. 14-D (XXV-27), dated 2-8-1967, Circular No. 26 (LXXVI-3), dated 7-7-1955, Circular No. 104, dated 19-2-1973 and Circular No. 587, dated 11-12-1990. 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. "(1)" omitted by the Finance Act, 1987, w.e.f. 1-4-1988.

48. "other than capital gains" omitted by the Finance Act, 1987, w.e.f. 1-4-1988.

49. Omitted, *ibid.* Prior to its omission sub-section (2) stood as under :

"(2) (i) Where the result of the computation made for any assessment year under sections 48 to 55 in respect of any short-term capital asset is a loss, the assessee shall be entitled to have the amount of such loss set off against the income, if any, as arrived at under a similar computation made for the assessment year in respect of any other capital asset.

(ii) Where the result of the computation made for any assessment year under sections 48 to 55 in respect of any capital asset other than a short-term capital asset is a loss, the assessee shall be entitled to have the amount of such loss set off against the income, if any, as arrived at under a similar computation made for the assessment year in respect of any other capital asset not being a short-term capital asset."