

(3) Every person who was at the time of such discontinuance or dissolution a partner of the firm, and the legal representative of any such person who is deceased, shall be jointly and severally liable for the amount of tax, penalty or other sum payable, and all the provisions of this Act, so far as may be, shall apply to any such assessment or imposition of penalty or other sum.

Explanation.—⁵²[*Omitted by the Finance Act, 1992, w.e.f. 1-4-1993.*]

(4) Where such discontinuance or dissolution takes place after any proceedings in respect of an assessment year have commenced, the proceedings may be continued against the person referred to in sub-section (3) from the stage at which the proceedings stood at the time of such discontinuance or dissolution, and all the provisions of this Act shall, so far as may be, apply accordingly.

(5) Nothing in this section shall affect the provisions of sub-section (6) of section 159.

⁵³[**Provisions applicable to past assessments of firms.**]

189A. In relation to the assessment of any firm and its partners for the assessment year commencing on the 1st day of April, 1992, or any earlier assessment year, the provisions of this Chapter as they stood immediately before the 1st day of April, 1993, shall continue to apply.]

CHAPTER XVII

COLLECTION AND RECOVERY OF TAX

A.—General

Deduction at source and advance payment.

⁵⁴**190.** (1) Notwithstanding that the regular assessment in respect of any income is to be made in a later assessment year, the tax on such income shall be payable by deduction ⁵⁵[or collection] at source or by advance payment, as the case may be, in accordance with the provisions of this Chapter.

(2) Nothing in this section shall prejudice the charge of tax on such income under the provisions of sub-section (1) of section 4.

52. Prior to omission, *Explanation*, as inserted by the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-10-1975 and omitted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989 and later reintroduced by the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1-4-1989, read as under :

“Explanation.—The amount of tax referred to in this sub-section shall also include that part of the share of each partner in the income of the firm before its discontinuance or dissolution which the firm could have retained under sub-section (4) of section 182 but which has not been so retained.”

53. Inserted by the Finance Act, 1992, w.e.f. 1-4-1993. Earlier section 189A, which made provisions applicable to past assessments of firms and inserted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989, was omitted by the Direct Tax Laws (Amendment) Act, 1989, with effect from the same date.

54. For clarification regarding tax deduction at source under Chapter XVII clarifying that payment of any sum shall be liable for deduction of tax only under one section, *see* Circular No. 720, dated 30-8-1995. For details, *see* Taxmann’s Master Guide to Income-tax Act.

55. Inserted by the Direct Tax Laws (Amendment) Act, 1989, with retrospective effect from 1-6-1988.

Direct payment.

⁵⁶191. ⁵⁷[***] In the case of income in respect of which provision is not made under this Chapter for deducting income-tax at the time of payment, and in any case where income-tax has not been deducted in accordance with the provisions of this Chapter, income-tax shall be payable by the assessee direct.

⁵⁸[***]

*B.—Deduction at source***Salary.**

⁵⁹192. ⁶⁰(1) Any person responsible for paying any income chargeable under the head “Salaries” shall, at the time of payment, deduct income-tax ⁶¹[***] on the amount payable at the average of income-tax ⁶²[***] computed on the basis of the ⁶³[rates in force] for the financial year in which the payment is made, on the estimated income of the assessee under this head for that financial year.

⁶⁴(2) Where, during the financial year, an assessee is employed simultaneously under more than one employer, or where he has held successively employment under more than one employer, he may furnish to the person responsible for making the payment referred to in sub-section (1) (being one of the said employers as the assessee may, having regard to the circumstances of his case, choose), such details of the income under the head “Salaries” due or received by him from the other employer or employers, the tax deducted at source therefrom and such other particulars, in such form and verified in such manner as may be prescribed⁶⁵, and thereupon the person responsible for making the payment referred to above shall take into account the details so furnished for the purposes of making the deduction under sub-section (1).]

⁶⁶(2A) Where the assessee, being a Government servant or an employee in a

56. See also Circular No. 306, dated 19-6-1981, Circular No. 232, dated 26-11-1977 and Circular No. 141, dated 23-7-1974. For details, see Taxmann’s Master Guide to Income-tax Act.

57. “(1)” omitted by the Finance Act, 1965, w.e.f. 1-4-1965.

58. Sub-section (2) omitted, *ibid.*

59. See also Letter [F.No. 12/71/65-IT(B)(Extract)], dated 5-3-1966, Order [F.No. 35/68-IT (A-I)], dated 15-11-1972, Circular No. 196, dated 31-3-1976, Circular No. 501, dated 20-1-1988, Circular No. 504, dated 8-2-1988, Circular No. 483, dated 4-3-1987, Circular No. 147, dated 28-10-1974, Letter [F.No. 237/4/75-A & PAC], dated 23-11-1976, Circular No. 90, dated 26-6-1972, Circular No. 272, dated 27-5-1980, Circular No. 285, dated 21-10-1980, Circular No. 38-D(LXII-1), dated 9-7-1951, Circular No. 586, dated 28-11-1990, Circular No. 690, dated 1-9-1994, Circular No. 707, dated 11-7-1995, Circular No. 747, dated 2-12-1996, Circular No. 756, dated 10-10-1997, Circular No. 757, dated 20-10-1997, Circular No. 758, dated 7-11-1997, Circular No. 761, dated 13-1-1998, Circular No. 764, dated 20-2-1998 and Circular No. 771, dated 3-11-1998. For details, see Taxmann’s Master Guide to Income-tax Act.

60. See rules 28(1), 28AA, 30, 31, 33 and 37 and Form Nos. 13, 15AA, 16, 22 and 24.

61. “and super-tax” omitted by the Finance Act, 1965, w.e.f. 1-4-1965.

62. “and average rate of super-tax respectively” omitted, *ibid.*

63. Substituted for “rates of tax in force” by the Finance Act, 1968, w.e.f. 1-4-1968.

64. Inserted by the Finance Act, 1987, w.e.f. 1-6-1987. Original sub-section was omitted by the Finance Act, 1965, w.e.f. 1-4-1965.

65. See rule 26A and Form No. 12B.

66. Inserted by the Finance Act, 1987, w.e.f. 1-6-1987. See rule 21AA and Form No. 10E.

⁶⁷[company, co-operative society, local authority, university, institution, association or body] is entitled to the relief under sub-section (1) of section 89, he may furnish to the person responsible for making the payment referred to in sub-section (1), such particulars, in such form and verified in such manner as may be prescribed, and thereupon the person responsible as aforesaid shall compute the relief on the basis of such particulars and take it into account in making the deduction under sub-section (1).]

⁶⁸[*Explanation.*—For the purposes of this sub-section, “University” means a University established or incorporated by or under a Central, State or Provincial Act, and includes an institution declared under section 3 of the University Grants Commission Act, 1956 (3 of 1956), to be a University for the purposes of that Act.]

⁶⁹[(2B) Where an assessee who receives any income chargeable under the head “Salaries” has, in addition, any income chargeable under any other head of income (not being a loss under any such head other than the loss under the head “Income from house property”) for the same financial year, he may send to the person responsible for making the payment referred to in sub-section (1) the particulars of—

(a) such other income and of any tax deducted thereon under any other provision of this Chapter;

(b) the loss, if any, under the head “Income from house property”,

in such form and verified in such manner as may be prescribed⁷⁰, and thereupon the person responsible as aforesaid shall take—

(i) such other income and tax, if any, deducted thereon; and

(ii) the loss, if any, under the head “Income from house property”,

also into account for the purposes of making the deduction under sub-section (1) :

Provided that this sub-section shall not in any case have the effect of reducing the tax deductible except where the loss under the head “Income from house property” has been taken into account, from income under the head “Salaries” below the amount that would be so deductible if the other income and the tax deducted thereon had not been taken into account.]

67. Substituted for “public sector undertaking” by the Finance Act, 1989, w.e.f. 1-6-1989.

68. Inserted by the Finance Act, 1989, w.e.f. 1-6-1989.

69. Substituted by the Finance (No. 2) Act, 1998, w.e.f. 1-8-1998. Prior to its substitution, sub-section (2B), as inserted by the Finance Act, 1987, w.e.f. 1-6-1987, read as under :

‘(2B) Where an assessee who receives any income chargeable under the head “Salaries” has, in addition, any income chargeable under any other head of income (not being a loss under any such head) for the same financial year, he may send to the person responsible for making the payment referred to in sub-section (1) the particulars of such other income and of any tax deducted thereon under any other provision of this Chapter, in such form and verified in such manner as may be prescribed, and thereupon the person responsible as aforesaid shall take such other income and the tax, if any, deducted thereon also into account for the purposes of making the deduction under sub-section (1) :

Provided that this sub-section shall not in any case have the effect of reducing the tax deductible from the income under the head “Salaries” below the amount that would be so deductible if the other income and the tax deducted thereon had not been taken into account.’

70. See rule 26B and Form No. 12C.

(3) The person responsible for making the payment referred to in sub-section (1)⁷¹[or sub-section (2) or sub-section (2A) or sub-section (2B)] may, at the time of making any deduction, increase or reduce the amount to be deducted under this section for the purpose of adjusting any excess or deficiency arising out of any previous deduction or failure to deduct during the financial year.

(4) The trustees of a recognised provident fund, or any person authorised by the regulations of the fund to make payment of accumulated balances due to employees, shall, in cases where sub-rule (1) of rule 9 of Part A of the Fourth Schedule applies, at the time an accumulated balance due to an employee is paid, make therefrom the deduction provided in rule 10 of Part A of the Fourth Schedule.

⁷²(5) Where any contribution made by an employer, including interest on such contributions, if any, in an approved superannuation fund is paid to the employee, ⁷³[tax] on the amount so paid shall be deducted by the trustees of the fund to the extent provided in rule 6 of Part B of the Fourth Schedule.

⁷⁴(6) For the purposes of deduction of tax on salary payable in foreign currency, the value in rupees of such salary shall be calculated at the prescribed rate of exchange.

⁷⁵[***]

⁷⁶**Interest on securities.**

⁷⁷**193.** The person responsible for paying any income ⁷⁸[by way of interest on securities] shall, ⁷⁹[at the time of credit of such income to the account of the payee or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier], deduct income-tax ⁸⁰[***] at the rates in force on the amount of the interest payable :

⁸¹[***]

71. Inserted by the Finance Act, 1987, w.e.f. 1-6-1987. Earlier “or sub-section (2)” was omitted by the Finance Act, 1965, w.e.f. 1-4-1965.

72. See rule 33 and Form No. 22.

73. Substituted for “income-tax and super-tax” by the Finance Act, 1965, w.e.f. 1-4-1965.

74. See rules 26 and 115.

75. *Explanation* omitted by the Finance Act, 1965, w.e.f. 1-4-1965.

76. See rules 28(1), 28AA, 29C, 30, 31, 37 and 37A and Form Nos. 13, 15AA, 15F, 16A, 25 and 27.

77. See also Circular No. 2, dated 6-2-1969, Circular No. 2-P(XXXIV-4), dated 16-5-1966, Circular No. 735, dated 30-1-1996, Circular No. 741, dated 18-4-1996 and Circular No. 745, dated 19-7-1996. For details, see Taxmann’s Master Guide to Income-tax Act.

78. Substituted for “chargeable under the head “Interest on securities”” by the Finance Act, 1988, w.e.f. 1-4-1989.

79. Substituted for “at the time of payment” by the Finance Act, 1989, w.e.f. 1-6-1989.

80. “and super-tax” omitted by the Finance Act, 1965, w.e.f. 1-4-1965.

81. Omitted by the Finance Act, 1992, w.e.f. 1-6-1992. Prior to omission first proviso, as inserted by the Finance (No. 2) Act, 1991, w.e.f. 1-10-1991, read as under:

“**Provided** that where, in the case of a scheduled bank, the Central Government is satisfied that the total income of the bank justifies deduction of income-tax at a lower rate, it may, by notification in the Official Gazette, specify the rate at which deduction of income-tax shall be made in the case of such bank under this section and such notification shall, at any one time, have effect for such assessment year or years, not exceeding three assessment years, as may be specified in the notification:”

⁸²[**Provided** ⁸³[***]] that no tax shall be deducted from—

(i) any interest payable on 4¼ per cent National Defence Bonds, 1972, where the bonds are held by an individual, not being a non-resident; or

⁸⁴[(ia) any interest payable to an individual on 4¼ per cent National Defence Loan, 1968, or 4¾ per cent National Defence Loan, 1972; or]

⁸⁵[(ib) any interest payable on National Development Bonds; or]

(ii) ⁸⁶[***]

⁸⁷[(ia) any interest payable on 7-Year National Savings Certificates (IV Issue); or]

⁸⁸[(iib) any interest payable on such debentures, issued by any institution or authority, or any public sector company, or any co-operative society (including a co-operative land mortgage bank or a co-operative land development bank), as the Central Government may, by notification⁸⁹ in the Official Gazette, specify in this behalf;]

⁹⁰[***]]

(iii) any interest payable on 6½ per cent Gold Bonds, 1977, or 7 per cent Gold Bonds, 1980, where the Bonds are held by an individual not being a non-resident, and the holder thereof makes a declaration in writing before the person responsible for paying the interest that the total nominal value of the 6½ per cent Gold Bonds, 1977, or, as the case may be, the 7 per cent Gold Bonds, 1980, held by him (including such bonds, if any, held on his behalf by any other person) did not in either case exceed ten thousand rupees at any time during the period to which the interest relates;

82. Substituted by the Finance (No. 2) Act, 1965, w.e.f. 11-9-1965. Original proviso was inserted by the Taxation Laws (Amendment) Act, 1962, w.e.f. 13-12-1962.

83. Word “further” omitted by the Finance Act, 1992, w.e.f. 1-6-1992. Earlier, “further” was inserted by the Finance (No. 2) Act, 1991, w.e.f. 1-10-1991.

84. Inserted by the Taxation Laws (Amendment & Miscellaneous Provisions) Act, 1965, w.e.f. 4-12-1965.

85. Inserted by the Finance Act, 1978, w.e.f. 1-4-1978.

86. Omitted by the Finance Act, 1988, w.e.f. 1-4-1989. Prior to its omission, clause (ii) stood as under:

“(ii) any interest payable on National Savings Certificates (First Issue); or”

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

88. Substituted for the following clause (iib), which was inserted by the Finance Act, 1970, w.e.f. 1-4-1970, by the Finance Act, 1986, w.e.f. 1-6-1986:

“(iib) any interest payable on such debentures, issued by any co-operative society (including a co-operative land mortgage bank or a co-operative land development bank) or any other institution or authority, as the Central Government may, by notification in the Official Gazette, specify in this behalf; or”

89. For specified debentures/bonds, see Taxmann’s Master Guide to Income-tax Act.

90. *Explanation* omitted by the Finance Act, 1987, w.e.f. 1-4-1987. Omitted *Explanation*, which was inserted, while substituting clause (iib), by the Finance Act, 1986, w.e.f. 1-4-1986, read as under:

‘*Explanation*.—For the purposes of this clause, “public sector company” means any corporation established by or under any Central, State or Provincial Act or a Government company as defined in section 617 of the Companies Act, 1956 (1 of 1956); or’

(*iiia*) ⁹¹[* * *]

⁹²[(*iv*) any interest payable on any security of the Central Government or a State Government;]

⁹³[(*v*) any interest payable to an individual, who is resident in India, on debentures issued by a company in which the public are substantially interested, being debentures listed on a recognised stock exchange in India in accordance with the Securities Contracts (Regulation) Act, 1956 (42 of 1956), and any rules made thereunder, if—

(*a*) the interest is paid by the company by an account payee cheque; and

(*b*) the amount of such interest or, as the case may be, the aggregate of the amounts of such interest paid or likely to be paid during the financial year by the company to such individual does not exceed ⁹⁴[two thousand and five hundred rupees].]

⁹⁵[*Explanation* ⁹⁶[***].—For the purposes of this section, where any income by way of interest on securities is credited to any account, whether called “Interest payable account” or “Suspense account” or by any other name, in the books of account of the person liable to pay such income, such crediting shall be deemed to be credit of such income to the account of the payee and the provisions of this section shall apply accordingly.]

Explanation 2.—⁹⁷[*Omitted by the Finance Act, 1992, w.e.f. 1-6-1992.*]

91. Omitted by the Finance Act, 1997, w.e.f. 1-6-1997. Prior to its omission, clause (*iiia*), as inserted by the Finance Act, 1982, w.e.f. 1-6-1982, read as under :

“(*iiia*) any interest payable on such securities of the Central Government or a State Government, to such class of persons, and subject to such conditions, as the Central Government may, by notification† in the Official Gazette, specify in this behalf;”

† For notified securities, see Taxmann’s Master Guide to Income-tax Act.

92. Substituted by the Finance Act, 1997, w.e.f. 1-6-1997. Prior to its substitution, clause (*iv*), as inserted by the Finance Act, 1966, w.e.f. 1-4-1966, read as under :

“(*iv*) any interest payable on any other security of the Central or State Government, where the security is held by an individual, not being a non-resident, and the holder thereof makes a declaration in writing before the person responsible for paying the interest that—

(*a*) he has not previously been assessed under this Act or under the Indian Income-tax Act, 1922 (11 of 1922);

(*b*) his total income of the previous year in which the interest is due is not likely to exceed the maximum amount not chargeable to tax; and

(*c*) the total nominal value of the securities held by him (including such securities, if any, as are held on his behalf by any other person) did not exceed two thousand five hundred rupees at any time during the said previous year;”

93. Inserted by the Finance Act, 1984, w.e.f. 1-6-1984.

94. Substituted for “one thousand rupees” by the Finance Act, 1989, w.e.f. 1-6-1989.

95. Inserted, *ibid*. Original *Explanation*, which was inserted by the Finance Act, 1965, w.e.f. 1-4-1965, was omitted by the Finance (No. 2) Act, 1967, w.e.f. 1-4-1967.

96. Figure “1” omitted by the Finance Act, 1992, w.e.f. 1-6-1992. Earlier, *Explanation* was renumbered as *Explanation 1* by the Finance (No. 2) Act, 1991, w.e.f. 1-10-1991.

97. Prior to omission, *Explanation 2*, as inserted by the Finance (No. 2) Act, 1991, w.e.f. 1-10-1991, read as under :

‘*Explanation 2.*—For the purposes of this section, the expression “scheduled bank” shall have the meaning assigned to it in clause (*ii*) of the *Explanation* to clause (*viiia*) of sub-section (1) of section 36.’

Dividends.

⁹⁸**194.** ⁹⁹The principal officer of an Indian company or a company which has made the prescribed arrangements for the declaration and payment of dividends (including dividends on preference shares) within India, shall, before making any payment in cash or before issuing any cheque or warrant in respect of any dividend or before making any distribution or payment to a shareholder, ¹[who is resident in India,] of any dividend within the meaning of sub-clause (a) or sub-clause (b) or sub-clause (c) or sub-clause (d) or sub-clause (e) of clause (22) of section 2, deduct from the amount of such dividend, income-tax ²[***] at the rates in force :

³[**Provided** that no such deduction shall be made in the case of a shareholder, being an individual, ⁴[***] of a company in which the public are substantially interested, if—

- (a) the dividend is paid by such company by an account payee cheque; and
- (b) the amount of such dividend or, as the case may be, the aggregate of the amounts of such dividend distributed or paid or likely to be distributed or paid during the financial year by the company to the shareholder, does not exceed ⁵[two thousand five hundred rupees]:

⁶[**Provided further** that no such deduction shall be made in respect of any dividends referred to in section 115-O.]

⁷[**Interest other than “Interest on securities”.**

⁸**194A.** ⁹(1) Any person, not being an individual or a Hindu undivided family, who is responsible for paying to a resident any income by way of interest

98. See also Circular No. P(XXI-16), dated 8-1-1965 and Circular No. 3P(XXI-19), dated 1-5-1966. For details, see Taxmann's Master Guide to Income-tax Act.

99. See rules 27, 28(1), 29, 29C, 30, 30A, 31, 37 and 37A and Form Nos. 13, 15, 15B, 15G, 16A, 26 and 27.

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

2. “and super-tax” omitted by the Finance Act, 1965, w.e.f. 1-4-1965.

3. Substituted by the Finance Act, 1984, w.e.f. 1-6-1984. Original proviso was inserted by the Finance (No. 2) Act, 1977, w.e.f. 1-10-1977.

4. “who is resident in India,” omitted by the Finance (No. 2) Act, 1991, w.e.f. 1-10-1991.

5. Substituted for “one thousand rupees” by the Finance Act, 1987, w.e.f. 1-6-1987.

6. Inserted by the Finance Act, 1997, w.e.f. 1-6-1997. Earlier second proviso as amended by the Finance Act, 1965, w.e.f. 1-4-1965, Finance (No. 2) Act, 1977, w.e.f. 1-10-1977 and the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988, was later on omitted by the Finance Act, 1993, w.e.f. 1-6-1993.

7. Inserted by the Finance (No. 2) Act, 1967, w.e.f. 1-4-1967.

8. See also Circular No. 288, dated 22-12-1980, Circular No. 256, dated 29-5-1979, Circular No. 22/68-IT(B), dated 28-3-1968/13-5-1968 as modified by Letter [F.No. 12/23/68-IT(B)], dated 7-11-1968, Circular No. 65, dated 2-9-1971, Letter [F.No. 12/12/68-IT(A-II)], dated 23-9-1968, Letter [F.No. 12/113/68-IT(A-II)], dated 28-10-1968, Letter [F.No. 275/109/92-IT(B)], dated 21-9-1994, Circular No. 626, dated 12-2-1992, Circular No. 643, dated 23-1-1993, Circular No. 647, dated 22-3-1993, Circular No. 715, dated 8-8-1995 and Circular No. 716, dated 9-8-1995. For details, see Taxmann's Master Guide to Income-tax Act.

9. See rules 28(1), 28AA, 29C, 30, 31 and 37 and Form Nos. 13, 15AA, 15H, 16A and 26A.

other than income ¹⁰[by way of interest on securities], shall, at the time of credit of such income to the account of the payee or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon at the rates in force.

¹¹[***]

¹²[*Explanation.*—For the purposes of this section, where any income by way of interest as aforesaid is credited to any account, whether called “Interest payable account” or “Suspense account” or by any other name, in the books of account of the person liable to pay such income, such crediting shall be deemed to be credit of such income to the account of the payee and the provisions of this section shall apply accordingly.]

(2) ¹³[*Omitted by the Finance Act, 1992, w.e.f. 1-6-1992.*]

(3) The provisions of sub-section (1) shall not apply—

¹⁴[(i) where the amount of such income or, as the case may be, the aggregate of the amounts of such income credited or paid or likely to

10. Substituted for ‘chargeable under the head “Interest on securities” ’ by the Finance Act, 1988, w.e.f. 1-4-1989.

11. Omitted by the Finance Act, 1992, w.e.f. 1-6-1992. Prior to omission, proviso read as under: “**Provided** that no such deduction shall be made in a case where the person (not being a company or a registered firm) entitled to receive such income furnishes to the person responsible for making the payment—

(a) an affidavit, or

(b) a statement in writing,

declaring that his estimated total income assessable for the assessment year next following the financial year in which the income is credited or paid will be less than the minimum liable to income-tax.”

12. Inserted by the Finance Act, 1987, w.e.f. 1-6-1987.

13. Prior to omission, sub-section (2) as amended by the Finance Act, 1968, w.e.f. 1-4-1968, read as under :

“(2) The statement in writing referred to in sub-section (1) shall also contain such other particulars as may be prescribed, be verified in the prescribed manner, be signed in the presence of—

(a) a Member of Parliament or a State Legislature; or

(b) a Member of a District Council or a Metropolitan Council, a Municipal Corporation or Municipal Committee; or

(c) a Gazetted Officer of the Central or a State Government; or

(d) an officer of any banking company (including a co-operative bank) of the rank of sub-agent, agent or manager,

and bear an attestation by such member or officer to the effect that the person who has signed the statement is known to him.”

14. Substituted by the Finance Act, 1975, w.e.f. 1-4-1975. Section 20(2) of the Finance Act, 1975 makes an independent provision relating to substitution of clause (i). Sub-section (2) of section 20 read as under :

‘(2) Notwithstanding the substitution of clause (i) of sub-section (3) of section 194A of the Income-tax Act, by sub-section (1) of this section nothing in section 201 or section 276B of that Act shall apply to, or in relation to, any failure to deduct income-tax under sub-section (1) of the said section 194A on any income by way of interest other than income chargeable under the head “Interest on securities” credited or paid on or after the 1st day of April, 1975, but before the 1st day of June, 1975, where the income so credited or paid at any one time does not exceed four hundred rupees.’

be credited or paid during the financial year by the person referred to in sub-section (1) to the account of, or to, the payee, does not exceed¹⁵[two thousand five hundred rupees:]

¹⁶[**Provided** that in respect of the income credited or paid in respect of—

- (a) time deposits with a banking company to which the Banking Regulation Act, 1949 (10 of 1949) applies (including any bank or banking institution referred to in section 51 of that Act); or
- (b) time deposits with a co-operative society engaged in carrying on the business of banking;
- (c) deposits with a public company which is 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^{16a}[and which is for the time being approved by the Central Government for the purpose of clause (viii) of sub-section (1) of section 36],

the provisions of this clause shall have effect as if for the words “two thousand five hundred rupees”, the words “ten thousand rupees” had been substituted and the aforesaid amount shall be computed with reference to the income credited or paid by a branch of the banking company or the co-operative society or the public company, as the case may be;]

^{16b}[(ii) to such income credited or paid before the 1st day of October, 1967];

(iii) to such income credited or paid to—

- (a) any banking company to which the Banking Regulation Act, 1949 (10 of 1949), applies, or any co-operative society engaged in carrying on the business of banking (including a co-operative land mortgage bank), or
- (b) any financial corporation established by or under a Central, State or Provincial Act, or
- (c) the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956 (31 of 1956), or

15. Substituted for “one thousand rupees” by the Finance Act, 1987, w.e.f. 1-6-1987.

16. Substituted by the Finance (No. 2) Act, 1996, w.e.f. 1-10-1996. Prior to its substitution, proviso, as inserted by the Finance Act, 1995, w.e.f. 1-7-1995, read as under :

Provided that in respect of the income credited or paid in respect of time deposits with a banking company to which the Banking Regulation Act, 1949 (10 of 1949), applies (including any bank or banking institution referred to in section 51 of that Act) or with a co-operative society engaged in carrying on the business of banking, the provisions of this clause shall have effect as if for the words “two thousand five hundred rupees”, the words “ten thousand rupees” had been substituted and the aforesaid amount shall be computed with reference to the income credited or paid by a branch of the banking company or the co-operative society, as the case may be;’

16a. Words “and which is for the time being approved by the Central Government for the purpose of clause (viii) of sub-section (1) of section 36” shall be omitted by the Finance Act, 1999, w.e.f. 1-4-2000.

16b. Clause (ii) shall be omitted, *ibid*.

- (d) the Unit Trust of India established under the Unit Trust of India Act, 1963 (52 of 1963), or
- (e) any company or co-operative society carrying on the business of insurance, or
- (f) such other institution, association or body ¹⁷[or class of institutions, associations or bodies] which the Central Government may, for reasons to be recorded in writing, notify¹⁸ in this behalf in the Official Gazette;
- ¹⁹[(iv) to such income credited or paid by a firm to a partner of the firm;]
 (v) to such income credited or paid by a co-operative society ²⁰[to a member thereof or] to any other co-operative society;]
- ²¹[(vi) to such income credited or paid in respect of deposits under any scheme framed by the Central Government and notified²² by it in this behalf in the Official Gazette;
- ²³[(vii) to such income credited or paid in respect of deposits (other than time deposits made on or after the 1st day of July, 1995) with a banking company to which the Banking Regulation Act, 1949 (10 of 1949) applies (including any bank or banking institution referred to in section 51 of that Act);
- (viii) to such income credited or paid in respect of,—
- (a) deposits with a primary agricultural credit society or a primary credit society or a co-operative land mortgage bank or a co-operative land development bank;
- (b) deposits (other than time deposits made on or after the 1st day of July, 1995) with a co-operative society, other than a co-operative society or bank referred to in sub-clause (a), engaged in carrying on the business of banking;]
- ²⁴[(viii) to such income credited or paid by the Central Government under any provision of this Act or the Indian Income-tax Act, 1922 (11 of

17. Inserted by the Finance Act, 1968, w.e.f. 1-4-1968.

18. For complete list of notified institutions, *see* Taxmann's Master Guide to Income-tax Act.

19. Reintroduced by the Direct Tax Laws (Amendment) Act, 1989, with retrospective effect from 1-4-1988. Earlier, it was omitted by the Direct Tax Laws (Amendment) Act, 1987, with effect from the same date. Original clause (iv) was inserted by the Finance Act, 1968, w.e.f. 1-4-1968.

20. Inserted by the Finance (No. 2) Act, 1971, w.e.f. 1-4-1971.

21. Inserted by the Finance Act, 1970, w.e.f. 1-4-1971.

22. For specified certificates/deposit scheme, *see* Taxmann's Master Guide to Income-tax Act.

23. Substituted for clause (vii) by the Finance Act, 1995, w.e.f. 1-7-1995. Prior to its substitution, clause (vii) as substituted for clauses (vii) and (viii) by the Finance Act, 1992, w.e.f. 1-6-1992, which were earlier substituted by the Finance (No. 2) Act, 1991, w.e.f. 1-10-1991, read as under :

“(vii) to such income credited or paid in respect of deposits with a banking company to which the Banking Regulation Act, 1949 (10 of 1949), applies (including any bank or banking institution referred to in section 51 of that Act), or with 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);”

24. Inserted by the Finance Act, 1975, w.e.f. 1-4-1975.

1922), or the Estate Duty Act, 1953 (34 of 1953), or the Wealth-tax Act, 1957 (27 of 1957), or the Gift-tax Act, 1958 (18 of 1958), or the Super Profits Tax Act, 1963 (14 of 1963), or the Companies (Profits) Surtax Act, 1964 (7 of 1964), or the Interest-tax Act, 1974 (45 of 1974).]

²⁵[*Explanation.*—For the purposes of clauses (i), (vii) and (viii), “time deposits” means deposits (excluding recurring deposits) repayable on the expiry of fixed periods.]

²⁶[(4) The person responsible for making the payment referred to in sub-section (1) may, at the time of making any deduction, increase or reduce the amount to be deducted under this section for the purpose of adjusting any excess or deficiency arising out of any previous deduction or failure to deduct during the financial year.]

Explanation.—²⁷[*Omitted by the Finance Act, 1992, w.e.f. 1-6-1992.*]

²⁸[**Winnings from lottery or crossword puzzle.**

²⁹**194B.** ³⁰The person responsible for paying to any person any income by way of winnings from any lottery or crossword puzzle in an amount exceeding ³¹[five thousand rupees] shall, at the time of payment thereof, deduct income-tax thereon at the rates in force :

^{31a}[**Provided** that no deduction shall be made under this section from any payment made before the 1st day of June, 1972:]]

³²[**Provided** ^{32a}[*further*] that in a case where the winnings are wholly in kind or partly in cash and partly in kind but the part in cash is not sufficient to meet the liability of deduction of tax in respect of whole of the winnings, the person responsible for paying shall, before releasing the winnings, ensure that tax has been paid in respect of the winnings.]

³³[**Winnings from horse race.**

194BB. ³⁴Any person, being a bookmaker or a person to whom a licence has been granted by the Government under any law for the time being in

25. Inserted by the Finance Act, 1995, w.e.f. 1-7-1995.

26. Inserted by the Finance Act, 1975, w.e.f. 1-4-1975.

27. Prior to omission, *Explanation* read as under :

Explanation.—In this section, “Gazetted Officer” includes a Tehsildar or a Mamlatdar of a Taluka or Tehsil or any other officer performing functions similar to those of a Tehsildar or Mamlatdar.’

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

29. See also Circular No. 264, dated 11-2-1980. For details, see Taxmann’s Master Guide to Income-tax Act.

30. See rules 30, 31 and 37 and Form Nos. 16A and 26B.

31. Substituted for “one thousand rupees” by the Finance Act, 1986, w.e.f. 1-6-1986.

31a. The first proviso shall be omitted by the Finance Act, 1999, w.e.f. **1-4-2000**.

32. Inserted by the Finance Act, 1997, w.e.f. 1-6-1997.

32a. Word “further” shall be omitted by the Finance Act, 1999, w.e.f. **1-4-2000**.

33. Inserted by the Finance Act, 1978, w.e.f. 1-4-1978.

34. See rules 30, 31 and 37 and Form Nos. 16A and 26BB.

force for horse racing in any race course or for arranging for wagering or betting in any race course, who is responsible for paying to any person any income by way of winnings from any horse race in an amount exceeding³⁵[two thousand five hundred rupees] shall, at the time of payment thereof, deduct income-tax thereon at the rates in force :

^{35a}**[Provided that no deduction shall be made under this section from any payment made before the 1st day of June, 1978.]**

³⁶**[Payments to contractors and sub-contractors.]**

³⁷**194C.**³⁸(1) Any person responsible for paying any sum to any resident (hereafter in this section referred to as the contractor) for carrying out any work (including supply of labour for carrying out any work) in pursuance of a contract between the contractor and—

- (a) the Central Government or any State Government; or
- (b) any local authority; or
- (c) any corporation established by or under a Central, State or Provincial Act; or

(d) any company; ³⁹[or]

³⁹[(e) any co-operative ⁴⁰[society; or]]

⁴¹[(f) any authority, constituted in India by or under any law, engaged either for the purpose of dealing with and satisfying the need for housing accommodation or for the purpose of planning, development or improvement of cities, towns and villages, or for both; or

(g) any 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; or

(h) any trust; or

(i) any University established or incorporated by or under a Central, State or Provincial Act and an institution declared to be a University under section 3 of the University Grants Commission Act, 1956 (3 of 1956); ⁴²[or]

⁴²[(j) any firm,]

35. Substituted for “*five thousand rupees*” by the Finance (No. 2) Act, 1991, w.e.f. 1-10-1991. Earlier italicised words were substituted by the Finance Act, 1986, w.e.f. 1-6-1986.

35a. Proviso shall be omitted by the Finance Act, 1999, w.e.f. **1-4-2000**.

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

37. See also Circular No. 433, dated 25-9-1985, Circular No. 487, dated 8-6-1987, Circular No. 502, dated 27-1-1988, Circular No. 558, dated 28-3-1990, Circular No. 681, dated 8-3-1994, Circular No. 713, dated 2-8-1995, Circular No. 714, dated 3-8-1995, Circular No. 715, dated 8-8-1995, Circular No. 716, dated 9-8-1995, Circular No. 720, dated 30-8-1995 and Circular No. 723, dated 19-9-1995. For details, see Taxmann’s Master Guide to Income-tax Act.

38. See rules 28, 30, 31 and 37 and Form Nos. 13C, 16A and 26C.

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

40. Substituted for the word “society,” by the Finance Act, 1992, w.e.f. 1-6-1992.

41. Inserted, *ibid*.

42. Inserted by the Finance Act, 1995, w.e.f. 1-7-1995.

shall, at the time of credit of such sum to the account of the contractor or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, ⁴³[deduct an amount equal to—

(i) one per cent in case of advertising,

(ii) in any other case two per cent,

of such sum as income-tax on income comprised therein.]

(2) Any person (being a contractor and not being an individual or a Hindu undivided family) responsible for paying any sum to any resident (hereafter in this section referred to as the sub-contractor) in pursuance of a contract with the sub-contractor for carrying out, or for the supply of labour for carrying out, the whole or any part of the work undertaken by the contractor or for supplying whether wholly or partly any labour which the contractor has undertaken to supply shall, at the time of credit of such sum to the account of the sub-contractor or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct an amount equal to one per cent of such sum as income-tax on income comprised therein.

⁴⁴[*Explanation I*.—For the purposes of sub-section (2), the expression “contractor” shall also include a contractor who is carrying out any work (including supply of labour for carrying out any work) in pursuance of a contract between the contractor and the Government of a foreign State or a foreign enterprise or any association or body established outside India.]

⁴⁵[⁴⁶[*Explanation II*].—For the purposes of this section, where any sum referred to in sub-section (1) or sub-section (2) is credited to any account, whether called “Suspense account” or by any other name, in the books of account of the person liable to pay such income, such crediting shall be deemed to be credit of such income to the account of the payee and the provisions of this section shall apply accordingly.]

⁴⁷[*Explanation III*.—For the purposes of this section, the expression “work” shall also include—

(a) advertising;

(b) broadcasting and telecasting including production of programmes for such broadcasting or telecasting;

(c) carriage of goods and passengers by any mode of transport other than by railways;

(d) catering.]

(3) No deduction shall be made under sub-section (1) or sub-section (2) from—

(i) any sum credited or paid in pursuance of any contract the consideration for which does not exceed ⁴⁸[twenty] thousand rupees; or

43. Substituted for “deduct an amount equal to two per cent of such sum as income-tax on income comprised therein” by the Finance Act, 1995, w.e.f. 1-7-1995

44. Inserted by the Finance Act, 1994, w.e.f. 1-6-1994.

45. Inserted by the Finance Act, 1988, w.e.f. 1-6-1988.

46. Renumbered by the Finance Act, 1994, w.e.f. 1-6-1994.

47. Inserted by the Finance Act, 1995, w.e.f. 1-7-1995.

48. Substituted for “ten”, *ibid.* Earlier “ten” was substituted for “five” by the Finance Act, 1982, w.e.f. 1-6-1982.

(ii) any sum credited or paid before the 1st day of June, 1972; ⁴⁹[or]

⁴⁹[(iii) any sum credited or paid before the 1st day of June, 1973, in pursuance of a contract between the contractor and a co-operative society or in pursuance of a contract between such contractor and the sub-contractor in relation to any work (including supply of labour for carrying out any work) undertaken by the contractor for the co-operative society.]

⁵⁰(4) Where the ⁵¹[Assessing] Officer is satisfied that the total income of the contractor or the sub-contractor justifies the deduction of income-tax at any lower rate or no deduction of income-tax, as the case may be, the ⁵¹[Assessing] Officer shall, on an application made by the contractor or the sub-contractor in this behalf, give to him such certificate as may be appropriate.

(5) Where any such certificate is given, the person responsible for paying the sum referred to in sub-section (1) or sub-section (2) shall, until such certificate is cancelled by the ⁵¹[Assessing] Officer, deduct income-tax at the rates specified in such certificate or deduct no tax, as the case may be.]

⁵²[**Insurance commission.**

⁵³**194D.** ⁵⁴Any person responsible for paying to a resident any income by way of remuneration or reward, whether by way of commission or otherwise, for soliciting or procuring insurance business (including business relating to the continuance, renewal or revival of policies of insurance) shall, at the time of credit of such income to the account of the payee or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon at the rates in force :

Provided that no deduction shall be made under this section from any such income credited or paid before the 1st day of June, 1973:]

⁵⁵[**Provided further** that no deduction shall be made under this section in a case where the amount of such income or, as the case may be, the aggregate of the amounts of such income credited or paid or likely to be credited or paid during the financial year to the account of, or to, the payee, does not exceed five thousand rupees.]

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

50. See rule 28(2) and Form No. 13C.

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

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

53. See also Circular No. 120, dated 8-10-1973. For details, see Taxmann's Master Guide to Income-tax Act.

54. See rules 28(1), 28AA, 30, 31 and 37 and Form Nos. 13, 15AA, 16A and 26D.

55. Inserted by the Finance Act, 1987, w.e.f. 1-6-1987.

⁵⁶[**Payments to non-resident sportsmen or sports associations.**⁵⁷

194E. Where any income referred to in section 115BBA is payable to a non-resident sportsman (including an athlete) who is not a citizen of India or a non-resident sports association or institution, the person responsible for making the payment shall, at the time of credit of such income to the account of the payee or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon at the rate of ten per cent.]

⁵⁸[**Payments in respect of deposits under National Savings Scheme, etc.**⁵⁹

194EE. The person responsible for paying to any person any amount referred to in clause (a) of sub-section (2) of section 80CCA shall, at the time of payment thereof, deduct income-tax thereon at the rate of twenty per cent :

Provided that no deduction shall be made under this section where the amount of such payment or, as the case may be, the aggregate amount of such payments to the payee during the financial year is less than two thousand five hundred rupees:

Provided further that nothing contained in this section shall apply to the payment of the said amount to the heirs of the assessee.]

⁶⁰[**Payments on account of repurchase of units by Mutual Fund or Unit Trust of India.**⁶¹

194F. The person responsible for paying to any person any amount referred to in sub-section (2) of section 80CCB shall, at the time of payment thereof, deduct income-tax thereon at the rate of twenty per cent.]

⁶²[**Commission, etc., on the sale of lottery tickets.**⁶³

194G.⁶⁴[(1)] Any person who is responsible for paying, on or after the 1st day of October, 1991 to any person, who is or has been stocking, distributing, purchasing or selling lottery tickets, any income by way of commission, remuneration or prize (by whatever name called) on such tickets in an amount exceeding one thousand rupees shall, at the time of credit of such income to the account of the payee or at the time of payment of such income in cash or by the issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon at the rate of ten per cent.

56. Inserted by the Direct Tax Laws (Second Amendment) Act, 1989, w.e.f. 1-11-1989. Earlier section 194E, as inserted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988, was omitted by the Direct Tax Laws (Amendment) Act, 1989, with retrospective effect from the same date.

57. See rules 30, 31 and 37A and Form Nos. 16A and 27.

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

59. See rules 29C, 30, 31 and 37 and Form Nos. 15-I, 16A and 26F.

60. Inserted by the Finance Act, 1990, w.e.f. 1-4-1991.

61. See rules 30, 31 and 37 and Form Nos. 16A and 26G.

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

63. See rules 30, 31 and 37 and Form Nos. 16A and 26H.

64. Renumbered by the Finance Act, 1992, w.e.f. 1-6-1992.

⁶⁵[(2) Where the Assessing Officer is satisfied that the total income of any person who is or has been stocking, distributing, purchasing or selling lottery tickets justifies the deduction of income-tax at any lower rate or no deduction of income-tax, as the case may be, the Assessing Officer shall, on an application⁶⁶ made by such person in this behalf, give to him such certificate as may be appropriate.]

(3) Where any such certificate is given, the person responsible for paying the income referred to in sub-section (1) shall, until such certificate is cancelled by the Assessing Officer, deduct income-tax at the rates specified in such certificate or deduct no tax, as the case may be.]

Explanation.—For the purposes of this section, where any income is credited to any account, whether called “Suspense Account” or by any other name, in the books of account of the person liable to pay such income, such crediting shall be deemed to be credit of such income to the account of the payee and the provisions of this section shall apply accordingly.]

^{66a}[⁶⁷[**Commission, brokerage, etc.**

⁶⁸**194H.**(1) *Any person, not being an individual or a Hindu undivided family, who is responsible for paying, on or after the 1st day of October, 1991, ⁶⁹[but before the 1st day of June, 1992], to a resident, any income by way of commission (not being insurance commission referred to in section 194D) or brokerage, shall, at the time of credit of such income to the account of the payee or at the time of payment of such income in cash or by the issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon at the rate of ten per cent.*

⁷⁰(2) *The provisions of sub-section (1) shall not apply—*

- (a) *to such persons or class or classes of persons as the Central Government may, having regard to the extent of inconvenience caused or likely to be caused to them and being satisfied that it will not be prejudicial to the interests of the revenue, by notification in the Official Gazette, specify in this behalf;*
- (b) *where the amount of such income or, as the case may be, the aggregate of the amounts of such income credited or paid or likely to be credited or paid during the financial year by the person referred to in sub-section (1) to the account of, or to, the payee, does not exceed two thousand five hundred rupees.*

Explanation.—For the purposes of this section,—

- (i) *“commission or brokerage” includes any payment received or receivable, directly or indirectly, by a person acting on behalf of*

65. Inserted by the Finance Act, 1992, w.e.f. 1-6-1992.

66. See rule 28(4) and Form No. 13D.

66a. Section 194H shall be omitted by the Finance Act, 1999, w.e.f. **1-4-2000**.

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

68. See rules 30, 31 and 37 and Form Nos. 16A and 26-I.

69. Inserted by the Finance Act, 1992, w.e.f. 1-6-1992.

70. For applicability of section 194H to commission agent, see Notification No. 9007 [F. No. 275/13/92-IT(B)], dated 3-3-1992 and for applicability of section to travel agents, see Notification No. 9006 [F. No. 275/1/92-IT(B)], dated 3-3-1992.

another person for services rendered (not being professional services) or for any services in the course of buying or selling of goods or in relation to any transaction relating to any asset, valuable article or thing;

- (ii) *“professional services” means services rendered by a person in the course of carrying on a legal, medical, engineering or architectural profession or the profession of accountancy or technical consultancy or interior decoration or such other profession as is notified by the Board for the purposes of section 44AA;*
- (iii) *where any income is credited to any account, whether called “Suspense account” or by any other name, in the books of account of the person liable to pay such income, such crediting shall be deemed to be credit of such income to the account of the payee and the provisions of this section shall apply accordingly.]]*

⁷¹[**Rent.**

⁷²**194-I.** Any person, not being an individual or a Hindu undivided family, who

is responsible for paying to any person any income by way of rent, shall, at the time of credit of such income to the account of the payee or at the time of payment thereof in cash or by the issue of a cheque or draft or by any other mode, whichever is earlier, ⁷³[deduct income-tax thereon at the rate of—

- (a) fifteen per cent if the payee is an individual or a Hindu undivided family; and
- (b) twenty per cent in other cases :]

Provided that no deduction shall be made under this section where the amount of such income or, as the case may be, the aggregate of the amounts of such income credited or paid or likely to be credited or paid during the financial year by the aforesaid person to the account of, or to, the payee, does not exceed one hundred and twenty thousand rupees.

Explanation.—For the purposes of this section,—

- (i) “rent” means any payment, by whatever name called, under any lease, sub-lease, tenancy or any other agreement or arrangement for the use of any land or any building (including factory building), together with furniture, fittings and the land appurtenant thereto, whether or not such building is owned by the payee;
- (ii) where any income is credited to any account, whether called “Suspense account” or by any other name, in the books of account of the person liable to pay such income, such crediting shall be deemed to be credit of such income to the account of the payee and the provisions of this section shall apply accordingly.]

71. Inserted by the Finance Act, 1994, w.e.f. 1-6-1994.

72. See also Circular No. 699, dated 30-1-1995, Circular No. 715, dated 8-8-1995, Circular No. 718, dated 22-8-1995, Circular No. 735, dated 30-1-1996 and Circular No. 736, dated 13-2-1996. For details, see Taxmann’s Master Guide to Income-tax Act. See rules 28, 28AA, 30, 31 and 37 and Form Nos. 13, 15AA, 16A and 26J.

73. Substituted for “deduct income-tax thereon at the rate of twenty per cent:” by the Finance Act, 1995, w.e.f. 1-7-1995.

⁷⁴[Fees for professional or technical services.⁷⁵

⁷⁶194J. (1) Any person, not being an individual or a Hindu undivided family, who is responsible for paying to a resident any sum by way of—

- (a) fees for professional services, or
- (b) fees for technical services,

shall, at the time of credit of such sum to the account of the payee or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct an amount equal to five per cent of such sum as income-tax on income comprised therein:

Provided that no deduction shall be made under this section—

- (A) from any sums as aforesaid credited or paid before the 1st day of July, 1995; or
- (B) where the amount of such sum or, as the case may be, the aggregate of the amounts of such sums credited or paid or likely to be credited or paid during the financial year by the aforesaid person to the account of, or to, the payee, does not exceed—
 - (i) twenty thousand rupees, in the case of fees for professional services referred to in clause (a), or
 - (ii) twenty thousand rupees, in the case of fees for technical services referred to in clause (b).

(2) Where the Assessing Officer is satisfied that the total income of any person in receipt of the sum referred to in sub-section (1) justifies the deduction of income-tax at any lower rate or no deduction of income-tax, as the case may be, the Assessing Officer shall, on an application made by that person in this behalf, give to him such certificate as may be appropriate.

(3) Where any such certificate is given, the person responsible for paying the sum referred to in sub-section (1) shall, until such certificate is cancelled by the Assessing Officer, deduct income-tax at the rates specified in such certificate or deduct no tax, as the case may be.

Explanation.—For the purposes of this section,—

- (a) “professional services” means services rendered by a person in the course of carrying on legal, medical, engineering or architectural profession or the profession of accountancy or technical consultancy or interior decoration or advertising or such other profession as is notified by the Board for the purposes of section 44AA or of this section;
- (b) “fees for technical services” shall have the same meaning as in *Explanation 2* to clause (vii) of sub-section (1) of section 9;
- (c) where any sum referred to in sub-section (1) is credited to any account, whether called “suspense account” or by any other name, in

74. Sections 194J and 194K inserted by the Finance Act, 1995, w.e.f. 1-7-1995.

75. See rules 28(5), 30, 31 and 37 and Form Nos. 13E, 16A and 26K.

76. See also Circular No. 714, dated 3-8-1995, Circular No. 715, dated 8-8-1995, Circular No. 716, dated 9-8-1995, Circular No. 720, dated 30-8-1995, Circular No. 726, dated 18-10-1995 and Circular No. 766, dated 24-4-1998. For details, see Taxmann’s Master Guide to Income-tax Act.

the books of account of the person liable to pay such sum, such crediting shall be deemed to be credit of such sum to the account of the payee and the provisions of this section shall apply accordingly.

Income in respect of units⁷⁷.

194K. (1) Where any income is payable to a resident in respect of units of a Mutual Fund specified under clause (23D) of section 10 or of the Unit Trust of India the person responsible for making the payment shall, at the time of credit of such income to the account of payee or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon at the rate of,—

- (a) twenty per cent, if the payee is a company, and
- (b) fifteen per cent in the case of other payees :

^{77a}**[Provided that no deduction shall be made under this sub-section from any such income credited or paid on or after the 1st day of June, 1999.]**

(2) The provisions of sub-section (1) shall not apply—

- (i) where the amount of such income or, as the case may be, the aggregate of the amounts of such income credited or paid or likely to be credited or paid during the financial year by the person responsible for making the payment to the account of, or to, the payee does not exceed ten thousand rupees :

Provided that the amount of ten thousand rupees shall be computed with reference to the income credited or paid,—

- (a) in respect of a branch office of the Mutual Fund or of the Unit Trust of India, as the case may be, and
- (b) under a particular scheme under which the units have been issued;
- (ii) to such income credited or paid before the 1st day of July, 1995;
- (iii) to such income credited or paid in respect of units issued under such scheme already in operation of the Mutual Fund or of the Unit Trust of India, as the Central Government may, by notification⁷⁸ in the Official Gazette, specify in this behalf having regard to the plan of payment of income thereunder to the unit-holders; and
- (iv) to such income credited or paid in respect of units issued under any scheme of the Unit Trust of India to any institution or fund where such income is not liable to inclusion in its total income under the provisions of sections 11 and 12 or clause (22) or clause (22A) or clause (23) or clause (23AA) or clause (23C) of section 10.

Explanation.—For the purposes of this section,—

- (a) “Unit Trust of India” means the Unit Trust of India established under the Unit Trust of India Act, 1963 (52 of 1963);

77. See rules 28(1), 28AA, 29C(3), 30, 31 and 37 and Form Nos. 13, 15AA, 15H, 16A and 26. See also Circular No. 715, dated 8-8-1995 and Circular No. 716, dated 9-8-1995. For details, see Taxmann’s Master Guide to Income-tax Act.

77a. Inserted by the Finance Act, 1999, w.e.f. 1-6-1999.

78. For notified schemes of UTI, see Taxmann’s Master Guide to Income-tax Act.

(b) where any income as aforesaid is credited to any account, whether called "Suspense account" or by any other name, in the books of account of the person liable to pay such income, such crediting shall be deemed to be credit of such income to the account of the payee and the provisions of this section shall apply accordingly.]

^{78a}**[Payment of compensation on acquisition of capital asset.**

194L. *Any person responsible for paying to a resident any sum being in the nature of compensation or the enhanced compensation or the consideration or the enhanced consideration on account of compulsory acquisition, under any law for the time being in force, of any capital asset shall, at the time of payment of such sum in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct an amount equal to ten per cent of such sum as income-tax on income comprised therein :*

Provided that no deduction shall be made under this section where the amount of such payment or, as the case may be, the aggregate amount of such payments to a resident during the financial year does not exceed one hundred thousand rupees.]

Other sums.

⁷⁹**195.** ⁸⁰[(1) ⁸¹Any person responsible for paying to a non-resident, not being a company, or to a foreign company, any interest (not being interest on

^{78a}. Inserted by the Finance Act, 1999, w.e.f. **1-6-1999.**

79. See also Circular No. 370, dated 3-10-1983, Letter [F. No. 391/3/78-FTD], dated 9-7-1984, Circular No. 152, dated 27-11-1974, Letter [F. No. 12/29/6-IT(B)], dated 1-6-1965, Circular No. 43, dated 20-6-1970, Circular No. 20(II-4), dated 3-8-1961, Circular No. 588, dated 2-1-1991, Circular No. 695, dated 28-11-1994, Circular No. 723, dated 19-9-1995, Circular No. 728, dated 30-10-1995, Circular No. 734, dated 24-1-1996, Circular No. 740, dated 17-4-1996, Circular No. 759, dated 18-11-1997, AD(M.A. Series) Circular No. 48, dated 29-11-1997 issued by RBI, Circular No. 767, dated 22-5-1998 and Circular No. 769, dated 6-8-1998. For details, see Taxmann's Master Guide to Income-tax Act.

80. Substituted for the following sub-section (1), as amended by the Finance Act, 1965, w.e.f. 1-4-1965 and by the Finance Act, 1975, w.e.f. 1-4-1975, by the Finance Act, 1987, w.e.f. 1-6-1987:

'(1) Any person responsible for paying to a non-resident, not being a company, or to a company which is neither an Indian company nor a company which has made the prescribed arrangements for the declaration and payment of dividends within India, any interest, not being "Interest on securities", or any other sum, not being dividends, chargeable under the provisions of this Act, shall, at the time of payment, unless he is himself liable to pay any income-tax thereon as an agent, deduct income-tax thereon at the rates in force:

Provided that nothing in this sub-section shall apply to any payment made in the course of transactions in respect of which a person responsible for the payments is deemed under the proviso to sub-section (1) of section 163 not to be an agent of the payee:

Provided further that the deduction of income-tax from any sum, being income chargeable under the head "Capital gains" relating to capital assets other than short-term capital assets, paid to a company which is neither an Indian company nor a company which has made the prescribed arrangements for the declaration and payment of dividends within India, shall be of an amount equal to the amount of income-tax on such sum calculated in accordance with the provisions of clause (i) of section 115.'

81. See rules 26, 28(1), 28AA, 29B, 30, 31 and 37A and Form Nos. 13, 15AA, 15C, 15D, 15E, 16A and 27.

securities) or any other sum chargeable under the provisions of this Act (not being income chargeable under the head “Salaries”⁸²[***]) shall, at the time of credit of such income to the account of the payee or at the time of payment thereof in cash or by the issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon at the rates in force :

⁸³[**Provided** that in the case of interest payable by the Government or a public sector bank within the meaning of clause (23D) of section 10 or a public financial institution within the meaning of that clause, deduction of tax shall be made only at the time of payment thereof in cash or by the issue of a cheque or draft or by any other mode :]

⁸⁴[**Provided further** that no such deduction shall be made in respect of any dividends referred to in section 115-O.]

Explanation.—For the purposes of this section, where any interest or other sum as aforesaid is credited to any account, whether called “Interest payable account” or “Suspense account” or by any other name, in the books of account of the person liable to pay such income, such crediting shall be deemed to be credit of such income to the account of the payee and the provisions of this section shall apply accordingly.]

(2) Where the person responsible for paying any such sum chargeable under this Act (other than ⁸⁵[***] interest on securities ⁸⁶[***] and salary) to a non-resident considers that the whole of such sum would not be income chargeable in the case of the recipient, he may make an application to the ⁸⁷[Assessing] Officer to determine, ⁸⁸[by general or special order], the appropriate proportion of such sum so chargeable, and upon such determination, tax shall be deducted under sub-section (1) only on that proportion of the sum which is so chargeable.

⁸⁹[***]

⁹⁰[(3) Subject to rules⁹¹ made under sub-section (5), any person entitled to receive any interest or other sum on which income-tax has to be deducted under sub-section (1) may make an application in the prescribed form to the ⁹²[Assessing]

82. “or dividends” omitted by the Finance (No. 2) Act, 1991, w.e.f. 1-10-1991.

83. Inserted by the Direct Tax Laws (Second Amendment) Act, 1989, with retrospective effect from 1-6-1987.

84. Inserted by the Finance Act, 1997, w.e.f. 1-6-1997.

85. “interest including” omitted by the Finance Act, 1976, w.e.f. 1-6-1976.

86. “, dividend” omitted by the Finance (No. 2) Act, 1991, w.e.f. 1-10-1991.

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

88. Substituted for “in the prescribed manner” by the Finance Act, 1988, with retrospective effect from 1-3-1988. The expression “in the prescribed manner” was earlier substituted for “by general or special order” by the Finance Act, 1987, w.e.f. 1-6-1987.

89. Omitted by the Finance (No. 2) Act, 1991, w.e.f. 1-10-1991. Prior to omission, proviso as inserted by the Finance Act, 1987, w.e.f. 1-6-1987, read as under :

“**Provided** that this sub-section shall not apply to any payment to a foreign company by way of interest referred to in clause (v), or royalty referred to in clause (vi), or fees for technical services referred to in clause (vii), of sub-section (1) of section 9.”

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

91. See rule 29B and Form Nos. 15C to 15E.

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

Officer for the grant of a certificate authorising him to receive such interest or other sum without deduction of tax under that sub-section, and where any such certificate is granted, every person responsible for paying such interest or other sum to the person to whom such certificate is granted shall, so long as the certificate is in force, make payment of such interest or other sum without deducting tax thereon under sub-section (1).

(4) A certificate granted under sub-section (3) shall remain in force till the expiry of the period specified therein or, if it is cancelled by the ^{92a}[Assessing] Officer before the expiry of such period, till such cancellation.

(5) The Board may, having regard to the convenience of assesseees and the interests of revenue, by notification in the Official Gazette, make rules specifying the cases in which, and the circumstances under which, an application may be made for the grant of a certificate under sub-section (3) and the conditions subject to which such certificate may be granted and providing for all other matters connected therewith.]

⁹³[**Income payable “net of tax”.**

195A. Where, under an agreement or other arrangement, the tax chargeable on any income referred to in the foregoing provisions of this Chapter is to be borne by the person by whom the income is payable, then, for the purposes of deduction of tax under those provisions such income shall be increased to such amount as would, after deduction of tax thereon at the rates in force for the financial year in which such income is payable, be equal to the net amount payable under such agreement or arrangement.]

⁹⁴[**Interest or dividend or other sums payable to Government, Reserve Bank or certain corporations.**

196. Notwithstanding anything contained in the foregoing provisions of this Chapter, no deduction of tax shall be made by any person from any sums payable to—

- (i) the Government, or
- (ii) the Reserve Bank of India, or
- (iii) a corporation established by or under a Central Act which is, under any law for the time being in force, exempt from income-tax on its income, or
- (iv) a Mutual Fund specified under clause (23D) of section 10,

where such sum is payable to it by way of interest or dividend in respect of any securities or shares owned by it or in which it has full beneficial interest, or any other income accruing or arising to it.]

^{92a} Substituted for “Income-tax” by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988.

⁹³ Inserted by the Finance Act, 1987, w.e.f. 1-6-1987.

⁹⁴ Substituted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988. Earlier it was substituted by the Finance (No. 2) Act, 1967, w.e.f. 1-4-1967.

⁹⁵[**Income in respect of units of non-residents.**⁹⁶

196A. (1) Any person responsible for paying to a non-resident, not being a company, or to a foreign company, any income in respect of units of a Mutual Fund specified under clause (23D) of section 10 or of the Unit Trust of India shall, at the time of credit of such income to the account of the payee or at the time of payment thereof in cash or by the issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon at the rate of twenty per cent :

^{96a}[**Provided** that no deduction shall be made under this sub-section from any such income credited or paid on or after the 1st day of June, 1999.]

(2) Notwithstanding anything contained in sub-section (1), no deduction of tax shall be made from any income payable in respect of units of the Unit Trust of India to a non-resident Indian or a non-resident Hindu undivided family, where the units have been acquired from the Unit Trust of India out of the funds in a Non-resident (External) Account maintained with any bank in India or by remittance of funds in foreign currency, in accordance, in either case, with the provisions of the Foreign Exchange Regulation Act, 1973 (46 of 1973), and the rules made thereunder.

Explanation.—For the purposes of this section—

- (a) ⁹⁷"foreign currency" shall have the meaning assigned to it in the Foreign Exchange Regulation Act, 1973 (46 of 1973);
- (b) "non-resident Indian" shall have the meaning assigned to it in clause (e) of section 115C;
- (c) "Unit Trust of India" means the Unit Trust of India established under the Unit Trust of India Act, 1963 (52 of 1963);

95. Substituted by the Finance Act, 1995, w.e.f. 1-7-1995. Prior to its substitution, section 196A, as substituted by the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 15-3-1989 and later amended by the Finance (No. 2) Act, 1991, w.e.f. 1-10-1991 and the Finance Act, 1994, w.e.f. 1-6-1994, read as under:

“196A. *Tax not to be deducted from any income payable to unit holders of Mutual Fund.*—

(1) Subject to the provisions of sub-section (2), no deduction of tax shall be made from any income payable in respect of units of a Mutual Fund, specified under clause (23D) of section 10, to its unit holders being persons other than foreign companies.

(2) Where any income referred to in sub-section (1) is payable to a unit holder, being a foreign company, the person responsible for making the payment shall, at the time of credit of such income to the account of the payee or at the time of payment thereof in cash or by the issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon at the rate of twenty per cent.

(3) Notwithstanding anything contained in this Act, no deduction of tax shall be made from any income payable in respect of units issued under any scheme of the Unit Trust of India established under section 3 of the Unit Trust of India Act, 1963 (52 of 1963), to any institution or fund where such income is not liable to inclusion in its total income under the provisions of sections 11 and 12 or clause (22) or clause (22A) or clause (23) or clause (23AA) or clause (23C) of section 10.”

96. See rules 30, 31 and 37A and Form Nos. 16A and 27.

96a. Inserted by the Finance Act, 1999, w.e.f. **1-6-1999**.

97. For definition of “foreign currency”, see footnote 35 on page 1.62 ante.

(d) where any income as aforesaid is credited to any account, whether called "Suspense account" or by any other name, in the books of account of the person liable to pay such income, such crediting shall be deemed to be credit of such income to the account of the payee and the provisions of this section shall apply accordingly.]

⁹⁸[**Income from units.**⁹⁹

196B. ¹[Where any income in respect of units referred to in section 115AB or by way of long-term capital gains arising from the transfer of such units is payable to an Offshore Fund], the person responsible for making the payment shall, at the time of credit of such income to the account of the payee or at the time of payment thereof in cash or by the issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon at the rate of ten per cent.]

²[**Income from foreign currency bonds or shares of Indian company.**³

196C. ⁴[Where any income by way of interest or dividends in respect of bonds or shares referred to in section 115AC or by way of long-term capital gains arising from the transfer of such bonds or shares is payable to a non-resident], the person responsible for making the payment shall, at the time of credit of such income to the account of the payee or at the time of payment thereof in cash or by the issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon at the rate of ten per cent:]

⁵[**Provided** that no such deduction shall be made in respect of any dividends referred to in section 115-O.]

⁶[**Income of Foreign Institutional Investors from securities.**⁷

196D. (1) Where any income in respect of securities referred to in clause (a) of sub-section (1) of section 115AD is payable to a Foreign Institutional Investor, the person responsible for making the payment shall, at the time of credit of such income to the account of the payee or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon at the rate of twenty per cent :

⁸[**Provided** that no such deduction shall be made in respect of any dividends referred to in section 115-O.]

(2) No deduction of tax shall be made from any income, by way of capital gains arising from the transfer of securities referred to in section 115AD, payable to a Foreign Institutional Investor.]

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

99. See rules 30, 31 and 37A and Form Nos. 16A and 27.

1. Substituted for "Where any income is payable in respect of units referred to in section 115AB to an Offshore Fund" by the Finance Act, 1993, w.e.f. 1-6-1993.

2. Inserted by the Finance Act, 1992, w.e.f. 1-6-1992.

3. See rules 30, 31 and 37A and Form Nos. 16A and 27.

4. Substituted for "Where any income by way of interest or dividends is payable in respect of bonds or shares referred to in section 115AC to a non-resident" by the Finance Act, 1993, w.e.f. 1-6-1993.

5. Inserted by the Finance Act, 1997, w.e.f. 1-6-1997.

6. Inserted by the Finance Act, 1993, w.e.f. 1-6-1993.

7. See rules 30, 31 and 37A and Form Nos. 16A and 27.

8. Inserted by the Finance Act, 1997, w.e.f. 1-6-1997.

Certificate for deduction at lower rate.

197. ⁹(1) ¹⁰[Subject to rules made under sub-section (2A), ¹¹[where, in the case of any income of any person, income-tax is required to be deducted at the time of credit or, as the case may be, at the time of payment at the rates in force under the provisions of sections 192, 193, ¹²[194,] 194A, 194D ¹³[, 194-I] ¹⁴[, 194K] ^{14a}[, 194L] and 195, the Assessing Officer is satisfied] that the total income ¹⁵[***] of the recipient justifies the deduction of income-tax ¹⁶[***] at any lower rates or no deduction of income-tax ¹⁶[***], as the case may be, the ¹⁷[Assessing] Officer shall, on an application made by the assessee in this behalf, give to him such certificate as may be appropriate.

(2) Where any such certificate is given, the person responsible for paying the income shall, until such certificate is cancelled by the ¹⁸[Assessing] Officer, deduct income-tax ¹⁹[***] at the rates specified in such certificate or deduct no tax, as the case may be.

²⁰[(2A) The Board may, having regard to the convenience of assesseees and the interests of revenue, by notification in the Official Gazette, make rules specifying the cases in which, and the circumstances under which, an application may be made for the grant of a certificate under sub-section (1) and the conditions subject to which such certificate may be granted and providing for all other matters connected therewith.]

9. See rules 28(1), 28AA and 29 and Form Nos. 13, 15 and 15AA.

See also Letter [F.No. 1(54)-63/TPL], dated 18-5-1963, Letter [F.No. 20/23/67-IT(A-I)], dated 28-7-1967, Circular No. 761, dated 13-1-1998 and Circular No. 774, dated 17-3-1998. For details, see Taxmann's Master Guide to Income-tax Act.

10. Substituted for "Where, in the case of any income of any person other than a company" by the Finance Act, 1987, w.e.f. 1-6-1987.

11. Substituted by the Finance Act, 1992, w.e.f. 1-6-1992, for the following :

"where, in the case of any income of any person other than a company,—

(a) income-tax is required to be deducted at the time of credit or, as the case may be, at the time of payment at the rates in force under the provisions of sections 192, 193, 194A, 194D and 195,

(b) being a non-resident, income-tax is required to be deducted at the time of payment at the rates in force under the provisions of section 194,

the Assessing Officer is satisfied."

Earlier, several amendments were made in the substituted portion by the Finance Act, 1965, w.e.f. 1-4-1965, Finance (No. 2) Act, 1967, w.e.f. 1-4-1967, Finance Act, 1972, w.e.f. 1-4-1972, Finance Act, 1973, w.e.f. 1-4-1973, Finance Act, 1978, w.e.f. 1-4-1978, Finance Act, 1986, w.e.f. 1-4-1987 and Direct Tax Laws (Amdt.) Act, 1987, w.e.f. 1-4-1988.

12. Inserted by the Finance Act, 1993, w.e.f. 1-6-1993.

13. Inserted by the Finance Act, 1994, w.e.f. 1-6-1994.

14. Inserted by the Finance Act, 1995, w.e.f. 1-7-1995.

14a. Inserted by the Finance Act, 1999, w.e.f. **1-6-1999**.

15. "or the total world income" omitted by the Finance Act, 1965, w.e.f. 1-4-1965.

16. "or super-tax" omitted by the Finance Act, 1965, w.e.f. 1-4-1965.

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

18. Substituted for "Income-tax", *ibid*.

19. "and super-tax" omitted by the Finance Act, 1965, w.e.f. 1-4-1965.

20. Inserted by the Finance Act, 1987, w.e.f. 1-6-1987.

(3) ²¹[***]

²²[No deduction to be made in certain cases.

²³**197A.**²⁴(1) Notwithstanding anything contained in ^{24a}[***] section 194 ²⁵[***] ²⁶[or section 194EE], no deduction of tax shall be made under any of the said sections in the case of an individual, who is resident in India, if such individual furnishes to the person responsible for paying any income of the nature referred to in ^{24a}[***] section 194 ²⁷[²⁸[***] or, as the case may be, section 194EE], a declaration in writing in duplicate in the prescribed form and verified in the prescribed manner to the effect that ²⁹[the tax on his estimated total income of the previous year in which such income is to be included in computing his total income will be *nil*.]

³⁰[(1A) Notwithstanding anything contained in ^{30a}[section 193 or] section 194A or section 194K, no deduction of tax shall be made under ^{30b}[any] of the said sections in the case of a person (not being a company or a firm), if such person furnishes to the person responsible for paying any income of the nature referred to in ^{30a}[section 193 or] section 194A or section 194K, as the case may be, a declaration in writing in duplicate in the prescribed form and verified in the prescribed

21. Sub-section (3) omitted by the Finance Act, 1986, w.e.f. 1-4-1987. Prior to its omission, sub-section (3), as substituted by the Finance (No. 2) Act, 1967, w.e.f. 1-4-1968, stood as under:

“(3) Where the principal officer of a company considers that, by reason of the provisions of section 80K, the whole or any portion of the dividend referred to in section 194 will be deductible in computing the total income of the recipient, he may, before paying the dividend to the shareholder or issuing any cheque or warrant in respect thereof, make an application to the Income-tax Officer to determine the appropriate proportion of the dividend to be deducted under the provisions of section 80K; and on such determination by the Income-tax Officer no tax shall be deducted on such proportionate amount.”

22. Inserted by the Finance Act, 1982, w.e.f. 1-6-1982.

23. See also Circular No. 351, dated 26-11-1982. For details, see Taxmann’s Master Guide to Income-tax Act.

24. See rule 29C and Form Nos. 15F to 15-I.

24a. Words “section 193 or” omitted by the Finance Act, 1999, w.e.f. **1-6-1999**.

25. Words “or section 194A” omitted by the Finance Act, 1992, w.e.f. 1-6-1992.

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

27. Substituted for “or, as the case may be, section 194A”, *ibid*.

28. Words “or section 194A” omitted by the Finance Act, 1992, w.e.f. 1-6-1992.

29. Substituted for “his estimated total income of the previous year in which such income is to be included in computing his total income will be less than the minimum liable to income-tax” by the Finance Act, 1990, w.e.f. 1-4-1990.

30. Substituted by the Finance Act, 1995, w.e.f. 1-7-1995. Prior to its substitution, sub-section (1A), as inserted by the Finance Act, 1992, w.e.f. 1-6-1992, read as under:

“(1A) Notwithstanding anything contained in section 194A, no deduction of tax shall be made under that section in the case of a person (not being a company or a firm), if such person furnishes to the person responsible for paying any income of the nature referred to in that section, a declaration in writing in duplicate in the prescribed form and verified in the prescribed manner to the effect that the tax on his estimated total income of the previous year in which such income is to be included in computing his total income will be *nil*.”

30a. Inserted by the Finance Act, 1999, w.e.f. **1-6-1999**.

30b. Substituted for “either”, *ibid*.

manner to the effect that the tax on his estimated total income of the previous year in which such income is to be included in computing his total income will be *nil.*]

(2) The person responsible for paying any income of the nature referred to in sub-section (1) ³¹[or sub-section (1A)] shall deliver or cause to be delivered to the ³²[Chief Commissioner or Commissioner] one copy of the declaration referred to in sub-section (1) ³¹[or sub-section (1A)] on or before the seventh day of the month next following the month in which the declaration is furnished to him.]

Tax deducted is income received.

198. All sums deducted in accordance with the provisions of ³³[sections 192 to 194, section 194A ³⁴[, section 194B] ³⁵[, section 194BB] ³⁴[, section 194C] ³⁶[, section 194D] ³⁷[, section 194E] ³⁸[, section 194EE, section 194F, section 194G, section 194H, ³⁹[section 194-I,] ⁴⁰[section 194J, section 194K,] ^{40a}[section 194L,] section 195, section 196A ⁴¹[, section 196B] ⁴²[, section 196C and section 196D]]] shall, for the purpose of computing the income of an assessee, be deemed to be income received.

Credit for tax deducted.

⁴³**199.** Any deduction made in accordance with the provisions of ⁴⁴[sections 192 to 194, section 194A ⁴⁵[, section 194B] ⁴⁶[, section 194BB] ⁴⁵[, section 194C] ⁴⁷[, section 194D] ⁴⁸[, section 194E] ⁴⁹[, section 194EE, section 194F, section 194G, section 194H, ⁵⁰[section 194-I,] ⁵¹[section 194J, section 194K,] ^{51a}[section 194L,]

31. Inserted by the Finance Act, 1992, w.e.f. 1-6-1992.

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

33. Substituted for "sections 192 to 195" by the Finance (No. 2) Act, 1967, w.e.f. 1-4-1967.

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

35. Inserted by the Finance Act, 1978, w.e.f. 1-4-1978.

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

37. Inserted by the Direct Tax Laws (Second Amendment) Act, 1989, w.e.f. 1-11-1989.

38. Substituted for "section 195 and section 196A" by the Finance (No. 2) Act, 1991, w.e.f. 1-10-1991.

39. Inserted by the Finance Act, 1994, w.e.f. 1-6-1994

40. Inserted by the Finance Act, 1995, w.e.f. 1-7-1995.

40a. Inserted by the Finance Act, 1999, w.e.f. **1-6-1999.**

41. Substituted for "and section 196B" by the Finance Act, 1992, w.e.f. 1-6-1992.

42. Substituted for "and section 196C" by the Finance Act, 1993, w.e.f. 1-6-1993.

43. See also Circular No. 3-D(XXI-20), dated 30-3-1967. For details, see Taxmann's Master Guide to Income-tax Act.

44. Substituted for "sections 192 to 195" by the Finance (No. 2) Act, 1967, w.e.f. 1-4-1967.

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

46. Inserted by the Finance Act, 1978, w.e.f. 1-4-1978.

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

48. Inserted by the Direct Tax Laws (Second Amendment) Act, 1989, w.e.f. 1-11-1989.

49. Substituted for "section 195 and section 196A" by the Finance (No. 2) Act, 1991, w.e.f. 1-10-1991.

50. Inserted by the Finance Act, 1994, w.e.f. 1-6-1994.

51. Inserted by the Finance Act, 1995, w.e.f. 1-7-1995.

51a. Inserted by the Finance Act, 1999, w.e.f. **1-6-1999.**

section 195, section 196A ⁵²[, section 196B] ⁵³[, section 196C and section 196D]]] and paid to the Central Government shall be treated as a payment of ⁵⁴[tax] on behalf of the person from whose income the deduction was made, or of the owner of the security ⁵⁵[, or depositor or owner of property or of unit-holder] or of the shareholder, as the case may be, and credit shall be given to him for the amount so deducted on the production of the certificate furnished under section 203 in the assessment ⁵⁶[***] ⁵⁷[made under this Act for the assessment year for which such income is assessable] :

⁵⁸[**Provided** that—

(i) in a case where such person or owner ⁵⁹[or depositor or unit-holder] or shareholder is a person, whose income is included under the provisions of section 60, section 61, section 64, section 93 or section 94 in the total income of another person, the payment shall be deemed to have been made on behalf of, and the credit shall be given to, such other person;

⁶⁰(ii) in any other case, where the dividend on any share is assessable as the income of a person other than the shareholder, the payment shall be deemed to have been made on behalf of, and the credit shall be given to, such other person in such circumstances as may be prescribed :

⁶¹[**Provided further** that where any property, deposit, security, unit or share is owned jointly by two or more persons not constituting a partnership, the payment shall be deemed to have been made on behalf of, and credit shall be given to, each such person in the same proportion in which rent, interest on deposit or on security or income in respect of unit or dividend on share is assessable as his income.]]

52. Substituted for “and section 196B” by the Finance Act, 1992, w.e.f. 1-6-1992.

53. Substituted for “and section 196C” by the Finance Act, 1993, w.e.f. 1-6-1993.

54. Substituted for “income-tax or super-tax, as the case may be,” by the Finance Act, 1965, w.e.f. 1-4-1965.

55. Inserted by the Finance (No. 2) Act, 1996, w.e.f. 1-4-1997.

56. “(including a provisional assessment under section 141A), if any,” omitted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989. The expression in italics was inserted by the Finance Act, 1968, w.e.f. 1-4-1968.

57. Substituted for “made for the immediately following assessment year under this Act” by the Finance Act, 1987, w.e.f. 1-6-1987.

58. Substituted by the Finance Act, 1968, with retrospective effect from 1-4-1962.

59. Inserted by the Finance (No. 2) Act, 1996, w.e.f. 1-4-1997.

60. See rule 30A and Form No. 15B.

61. Substituted by the Finance (No. 2) Act, 1996, w.e.f. 1-4-1997. Prior to its substitution, the second proviso, as substituted by the Finance Act, 1968, w.r.e.f. 1-4-1962, read as under : “**Provided further** that where any security or share in a company is owned jointly by two or more persons not constituting a partnership, the payment shall be deemed to have been made on behalf of, and the credit shall be given to, each such person in the same proportion in which the interest on such security or dividend on such share is assessable as his income.”

Duty of person deducting tax.

200. ⁶²Any person deducting any sum in accordance with the provisions of ⁶³[sections 192 to 194, section 194A ⁶⁴[, section 194B] ⁶⁵[, section 194BB] ⁶⁴[, section 194C] ⁶⁶[, section 194D] ⁶⁷[, section 194E] ⁶⁸[, section 194EE, section 194F, section 194G, section 194H, ⁶⁹[section 194-I,] ⁷⁰[section 194J, section 194K,] ^{70a}[*section 194L*,] section 195, section 196A ⁷¹[, section 196B ⁷²[, section 196C and section 196D]]] shall pay within the prescribed time, the sum so deducted to the credit of the Central Government or as the Board directs.

Consequences of failure to deduct or pay.⁷³

201. (1) If any such person and in the cases referred to in section 194, the principal officer and the company of which he is the principal officer does not deduct or after deducting fails to pay the tax as required by or under this Act, he or it shall, without prejudice to any other consequences which he or it may incur, be deemed to be an assessee in default in respect of the tax :

Provided that no penalty shall be charged under section 221 from such person, principal officer or company unless the ⁷⁴[Assessing] Officer is satisfied that such person or principal officer or company, as the case may be, has ⁷⁵[without good and sufficient reasons] failed to deduct and pay the tax.

⁷⁶[(1A) ⁷⁷Without prejudice to the provisions of sub-section (1), if any such person, principal officer or company as is referred to in that sub-section does not deduct or after deducting fails to pay the tax as required by or under this Act, he or it shall be liable to pay simple interest at ⁷⁸[*eighteen*] per cent per annum on the amount of such tax from the date on which such tax was deductible to the date on which such tax is actually paid.]

62. See rule 30.

63. Substituted for "sections 192 to 195" by the Finance (No. 2) Act, 1967, w.e.f. 1-4-1967.

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

65. Inserted by the Finance Act, 1978, w.e.f. 1-4-1978.

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

67. Inserted by the Direct Tax Laws (Second Amendment) Act, 1989, w.e.f. 1-11-1989.

68. Substituted for "section 195 and section 196A" by the Finance (No. 2) Act, 1991, w.e.f. 1-10-1991.

69. Inserted by the Finance Act, 1994, w.e.f. 1-6-1994.

70. Inserted by the Finance Act, 1995, w.e.f. 1-7-1995.

70a. Inserted by the Finance Act, 1999, w.e.f. **1-6-1999**.

71. Substituted for "and section 196B" by the Finance Act, 1992, w.e.f. 1-6-1992.

72. Substituted for "and section 196C" by the Finance Act, 1993, w.e.f. 1-6-1993.

73. See also Circular Nos. 685, 686 and 696, dated 17-6-1994, 12-8-1994 and 28-2-1995, respectively. For details, see Taxmann's Master Guide to Income-tax Act.

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

75. Substituted for "wilfully" by the Finance Act, 1966, w.e.f. 1-4-1966.

76. Inserted by the Finance Act, 1966, w.e.f. 1-4-1966.

77. See rule 119A.

78. Substituted for "fifteen" by the Finance Act, 1999, w.e.f. **1-6-1999**. Earlier "fifteen" was substituted for "twelve" by the Taxation Laws (Amendment) Act, 1984, w.e.f. 1-10-1984, "twelve" was substituted for "nine" by the Finance Act, 1972, w.e.f. 1-4-1972 and "nine" was substituted for "six" by the Taxation Laws (Amendment) Act, 1967, w.e.f. 1-10-1967.

(2) Where the tax has not been paid as aforesaid after it is deducted, ⁷⁹[the amount of the tax together with the amount of simple interest thereon referred to in sub-section (1A)] shall be a charge upon all the assets of the person, or the company, as the case may be, referred to in sub-section (1).

Deduction only one mode of recovery.

202. The power to ⁸⁰[recover] tax by deduction under ⁸¹[sections 192 to 194, section 194A ⁸²[, section 194B] ⁸³[, section 194BB] ⁸²[, section 194C] ⁸⁴[, section 194D] ⁸⁵[, section 194E] ⁸⁶[, section 194EE, section 194F, section 194G, section 194H, ⁸⁷[section 194-I,] ⁸⁸[section 194J, section 194K,] ^{88a}[section 194L,] section 195, section 196A ⁸⁹[, section 196B] ⁹⁰[, section 196C and section 196D]]] shall be without prejudice to any other mode of recovery.

⁹¹[Certificate for tax deducted.

⁹²203. ⁹³Every person deducting tax in accordance with the provisions of sections 192 to 194, section 194A ⁹⁴[, section 194B] ⁹⁵[, section 194BB] ⁹⁶[, section 194C] ⁹⁷[, section 194D] ⁹⁸[, section 194E] ⁹⁹[, section 194EE, section 194F, section 194G, section 194H, ¹[section 194-I,] ²[section 194J, section 194K,] ^{88a}[section 194L,] section 195, section 196A ³[, section 196B ⁴[, section 196C and

79. Substituted for "it" by the Finance Act, 1966, w.e.f. 1-4-1966.

80. Substituted for "levy" by the Finance Act, 1987, w.e.f. 1-6-1987.

81. Substituted for "sections 192 to 195" by the Finance (No. 2) Act, 1967, w.e.f. 1-4-1967.

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

83. Inserted by the Finance Act, 1978, w.e.f. 1-4-1978.

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

85. Inserted by the Direct Tax Laws (Second Amendment) Act, 1989, w.e.f. 1-11-1989.

86. Substituted for "section 195 and section 196A" by the Finance (No. 2) Act, 1991, w.e.f. 1-10-1991.

87. Inserted by the Finance Act, 1994, w.e.f. 1-6-1994.

88. Inserted by the Finance Act, 1995, w.e.f. 1-7-1995.

88a. Inserted by the Finance Act, 1999, w.e.f. **1-6-1999**.

89. Substituted for "and section 196B" by the Finance Act, 1992, w.e.f. 1-6-1992.

90. Substituted for "and section 196C" by the Finance Act, 1993, w.e.f. 1-6-1993.

91. Substituted by the Finance (No. 2) Act, 1967, w.e.f. 1-4-1967.

92. See also Circular No. 664, dated 29-9-1993, Circular No. 749, dated 27-12-1996 and Circular No. 761, dated 13-1-1998. For details, see Taxmann's Master Guide to Income-tax Act.

93. See rule 31 and Form Nos. 16 and 16A.

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

95. Inserted by the Finance Act, 1978, w.e.f. 1-4-1978.

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

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

98. Inserted by the Direct Tax Laws (Second Amendment) Act, 1989, w.e.f. 1-11-1989.

99. Substituted for "section 195 and section 196A" by the Finance (No. 2) Act, 1991, w.e.f. 1-10-1991.

1. Inserted by the Finance Act, 1994, w.e.f. 1-6-1994.

2. Inserted by the Finance Act, 1995, w.e.f. 1-7-1995.

3. Substituted for "and section 196B" by the Finance Act, 1992, w.e.f. 1-6-1992.

4. Substituted for "and section 196C" by the Finance Act, 1993, w.e.f. 1-6-1993.

section 196D]]], ⁵[shall, within such period as may be prescribed from the time of credit or payment of the sum, or, as the case may be, from the time of issue of a cheque or warrant for payment of any dividend to a shareholder], furnish to the person to whose account such credit is given or to whom such payment is made or the cheque or warrant is issued, a certificate to the effect that tax has been deducted, and specifying the amount so deducted, the rate at which the tax has been deducted and such other particulars as may be prescribed.]

¶[Tax deduction account number.

203A. (1) Every person deducting tax in accordance with the provisions of sections 192 to 194, section 194A, section 194B, section 194BB, section 194C, section 194D ⁷[, section 194E], ⁸[section 194EE, section 194F, section 194G, section 194H, ⁹[section 194-I,] ¹⁰[section 194J, section 194K,] ^{10a}[section 194L,] section 195, section 196A ¹¹[, section 196B ¹²[, section 196C and section 196D]]], if he has not been allotted any tax-deduction account number, shall, within such time as may be prescribed¹³, apply to the ¹⁴[Assessing] Officer for the allotment of a tax-deduction account number.

(2) Where a tax deduction account number has been allotted to a person, such person shall quote such number,—

- (a) in all challans for the payment of any sum in accordance with the provisions of section 200;
- (b) in all certificates issued in accordance with the provisions of section 203;
- (c) in all the returns delivered in accordance with the provisions of sections 206, 206A and 206B¹⁵ to any income-tax authority; and
- (d) in all other documents pertaining to such transactions as may be prescribed in the interests of revenue.]

5. Substituted for “shall, at the time of credit of payment of the sum, or, as the case may be, at the time of issue of a cheque or warrant for payment of any dividend to a shareholder” by the Finance Act, 1987, w.e.f. 1-6-1987.

6. Inserted, *ibid.* See rule 114A and Form No. 49B.

7. Inserted by the Direct Tax Laws (Second Amendment) Act, 1989, w.e.f. 1-11-1989.

8. Substituted for “section 195 and section 196A” by the Finance (No. 2) Act, 1991, w.e.f. 1-10-1991.

9. Inserted by the Finance Act, 1994, w.e.f. 1-6-1994.

10. Inserted by the Finance Act, 1995, w.e.f. 1-7-1995.

10a. Inserted by the Finance Act, 1999, w.e.f. **1-6-1999.**

11. Substituted for “and section 196B” by the Finance Act, 1992, w.e.f. 1-6-1992.

12. Substituted for “and section 196C” by the Finance Act, 1993, w.e.f. 1-6-1993.

13. See rule 114A and Form No. 49B for application for TAN. See **Appendix Two** for an analysis of rule 114A.

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

15. Sections 206A and 206B are now omitted by the Finance (No. 2) Act, 1996, w.e.f. 1-10-1996.

Meaning of “person responsible for paying”.

204. For the purposes of ¹⁶[sections 192 to 194, section 194A ¹⁷[, section 194B] ¹⁸[, section 194BB] ¹⁹[, section 194C] ²⁰[, section 194D] ²¹[, section 194E], ²²[section 194EE, section 194F, section 194G, section 194H, ²³[section 194-I,] ²⁴[section 194J, section 194K,] ^{24a}[*section 194L,*] sections 195 to 203 and ²⁵section 285, the expression “person responsible for paying” means—

(i) in the case of payments of income chargeable under the head “Salaries”, other than payments by the Central Government or the Government of a State, the employer himself or, if the employer is a company, the company itself, including the principal officer thereof;

(ii) in the case of payments of income chargeable under the head “Interest on securities”, other than payments made by or on behalf of the Central Government or the Government of a State, the local authority, corporation or company, including the principal officer thereof;

²⁶[(iii) in the case of any sum payable to a non-resident Indian, being any sum representing consideration for the transfer by him of any foreign exchange asset, which is not a short-term capital asset, the authorised dealer responsible for remitting such sum to the non-resident Indian or for crediting such sum to his Non-resident (External) Account maintained in accordance with the Foreign Exchange Regulation Act, 1973 (46 of 1973), and any rules made thereunder;]

(iii) ²⁷[in the case of credit, or, as the case may be, payment] of any other sum chargeable under the provisions of this Act, the payer himself, or, if the payer is a company, the company itself including the principal officer thereof.

²⁸[*Explanation.*—For the purposes of this section,—

(a) “non-resident Indian” and “foreign exchange asset” shall have the meanings assigned to them in Chapter XII-A;

16. Substituted for “sections 192 to 203” by the Finance (No. 2) Act, 1967, w.e.f. 1-4-1967.

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

18. Inserted by the Finance Act, 1978, w.e.f. 1-4-1978.

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

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

21. Inserted by the Direct Tax Laws (Second Amendment) Act, 1989, w.e.f. 1-11-1989.

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

23. Inserted by the Finance Act, 1994, w.e.f. 1-6-1994.

24. Inserted by the Finance Act, 1995, w.e.f. 1-7-1995.

24a. Inserted by the Finance Act, 1999, w.e.f. **1-6-1999**.

25. Section 285 has since been omitted by the Finance Act, 1987, w.e.f. 1-6-1987.

26. Inserted by the Finance Act, 1986, w.e.f. 1-6-1986.

27. Substituted for “in the case of payments” by the Finance (No. 2) Act, 1967, w.e.f. 1-4-1967.

28. Inserted by the Finance Act, 1986, w.e.f. 1-6-1986.

- (b) “authorised dealer”²⁹ shall have the meaning assigned to it in clause (b) of section 2 of the Foreign Exchange Regulation Act, 1973 (46 of 1973).]

Bar against direct demand on assessee.

205. Where tax is deductible at the source under ³⁰[sections 192 to 194, section 194A ³¹[, section 194B] ³²[, section 194BB] ³¹[, section 194C] ³³[, section 194D] ³⁴[, section 194E], ³⁵[section 194EE, section 194F, section 194G, section 194H, ³⁶[section 194-I,] ³⁷[section 194J, section 194K,] ^{37a}[section 194L,] section 195, section 196A ³⁸[, section 196B ³⁹[, section 196C and section 196D]]], the assessee shall not be called upon to pay the tax himself to the extent to which tax has been deducted from that income.

⁴⁰[Persons deducting tax to furnish prescribed returns.

⁴¹**206.** ⁴²[(1)] The prescribed person⁴³ in the case of every office of Government, the principal officer in the case of every company, the prescribed person⁴³

29. For definition of “authorised dealer”, see footnote 71 on p. 1.246 *ante*.

30. Substituted for “sections 192 to 195” by the Finance (No. 2) Act, 1967, w.e.f. 1-4-1967.

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

32. Inserted by the Finance Act, 1978, w.e.f. 1-4-1978.

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

34. Inserted by the Direct Tax Laws (Second Amendment) Act, 1989, w.e.f. 1-11-1989.

35. Substituted for “section 195 and section 196A” by the Finance (No. 2) Act, 1991, w.e.f. 1-10-1991.

36. Inserted by the Finance Act, 1994, w.e.f. 1-6-1994.

37. Inserted by the Finance Act, 1995, w.e.f. 1-7-1995.

37a. Inserted by the Finance Act, 1999, w.e.f. **1-6-1999**.

38. Substituted for “and section 196B” by the Finance Act, 1992, w.e.f. 1-6-1992.

39. Substituted for “and section 196C” by the Finance Act, 1993, w.e.f. 1-6-1993.

40. Substituted by the Finance Act, 1987, w.e.f. 1-6-1987. Prior to its substitution, section 206, as amended by the Finance Act, 1965, w.e.f. 1-4-1965, stood as under :

‘206. *Person paying salary to furnish prescribed return.*—(1) The prescribed person in the case of every office of the Government, the principal officer in the case of every company, the prescribed person in the case of every local authority or other public body or association, and every private employer shall prepare, and within thirty days from the 31st day of March in each year, deliver or cause to be delivered to the Income-tax Officer in the prescribed form and verified in the prescribed manner, a return in writing showing—

(a) the name and, so far as it is known, the address of every person who was receiving on the 31st day of March, or has received or to whom was due during the year ending on that date, from the Government, company, authority, body, association or private employer, as the case may be, any income chargeable under the head “Salaries” of such amount as may be prescribed;

(b) the amount of the income so received by or so due to each such person, and the time or times at which the same was paid or due, as the case may be;

(c) the amount deducted in respect of income-tax from the income of each such person.

(2) Where an employer deducts from the emoluments paid to an employee or pays on his behalf any contributions of that employee to an approved superannuation fund, he shall include all such deductions or payments in the return which he is required to furnish under this section.’

41. See also Circular No. 719, dated 22-8-1995 and Circular No. 744, dated 6-5-1996. For details, see Taxmann’s Master Guide to Income-tax Act.

42. Section 206 renumbered as sub-section (1) by the Finance Act, 1997, w.e.f. 1-4-1997.

43. See rule 36 for prescribed persons.

in the case of every local authority or other public body or association, every private employer and every other person responsible for deducting tax under the foregoing provisions of this Chapter⁴⁴[shall, within the prescribed time after the end of each financial year, prepare and deliver or cause to be delivered] to the prescribed income-tax authority⁴⁵, such returns⁴⁶ in such form and verified in such manner and setting forth such particulars as may be prescribed.]

⁴⁷[(2) Notwithstanding anything contained in any other law for the time being in force, a return filed on a floppy, diskette, magnetic cartridge tape, CD-ROM or any other computer readable media as may be specified by the Board (hereinafter referred to as the computer media) shall be deemed to be a return for the purposes of this section and the rules^{47a} made thereunder and shall be admissible in any proceedings thereunder, without further proof of production of the original, as evidence of any contents of the original or of any fact stated therein.

(3) A return filed under sub-section (2) shall fulfil the following conditions, namely :—

- (a) while receiving returns on computer media, necessary checks by scanning the documents filed on computer media will be carried out and the media will be duly authenticated by the Assessing Officer; and
- (b) the Assessing Officer shall also take due care to preserve the computer media by duplicating, transferring, mastering or storage without loss of data.]

Person paying interest to residents without deduction of tax, to furnish prescribed return.

206A.⁴⁸[*Omitted by the Finance (No. 2) Act, 1996, w.e.f. 1-10-1996.*]

44. Substituted for “shall prepare, within the prescribed time after the end of each financial year, and deliver or cause to be delivered” by the Finance (No. 2) Act, 1991, w.e.f. 27-9-1991.

45. See rule 36A. The prescribed authority under rule 36A is :

- (i) the Assessing Officer, so designated by the Chief Commissioner or Commissioner of Income-tax, within whose area of jurisdiction, the office of the person responsible for deducting tax under Chapter XVII-B is situated; or
- (ii) in any other case, to the Assessing Officer within whose area of jurisdiction, the office of the person responsible for deducting tax under Chapter XVII-B is situated.

46. See rules 36 and 37 and Form Nos. 24, 25, 26, 26A, 26B, 26BB, 26C, 26D, 26F, 26G, 26H, 26-I, 26J and 26K. Also see rule 37A and Form No. 27.

47. Sub-sections (2) and (3) inserted by the Finance Act, 1997, w.e.f. 1-4-1997.

47a. See rule 37B and Form No. 27A.

48. Prior to its omission, section 206A, as inserted by the Finance (No. 2) Act, 1967, w.e.f. 1-4-1967 and later on amended by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988, read as under :

“206A. *Person paying interest to residents without deduction of tax, to furnish prescribed return.*—Any person responsible for paying any income referred to in section 194A shall prepare, and within thirty days from the 31st day of March in each year, deliver or cause to be delivered to the Assessing Officer in the prescribed form and verified in the prescribed manner, a return in writing showing—

- (a) the name and address of every person who has furnished to him an affidavit or a statement under the proviso to sub-section (1) of section 194A;
- (b) the amount of the income credited or paid during the financial year to each such person and the time or times at which the same was credited or paid, as the case may be; and
- (c) such other particulars as may be prescribed.”

Person paying dividend to certain residents without deduction of tax to furnish prescribed return.

206B.⁴⁹[*Omitted by the Finance (No. 2) Act, 1996, w.e.f. 1-10-1996.*]

⁵⁰[*BB.—Collection at source*

Profits and gains from the business of trading in alcoholic liquor, forest produce, scrap, etc.

⁵¹**206C.**⁵²[⁵³(1) Every person, being a seller shall, at the time of debiting of the amount payable by the buyer to the account of the buyer or at the time of receipt of such amount from the said buyer in cash or by the issue of a cheque or draft or by any other mode, whichever is earlier, collect from the buyer of any goods of the nature specified in column (2) of the Table below, a sum equal to the

49. Prior to its omission, section 206B, as inserted by the Finance (No. 2) Act, 1977, w.e.f. 1-10-1977 and later on amended by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988, read as under :

“206B. *Person paying dividend to certain residents without deduction of tax to furnish prescribed form.*—Any person responsible for paying any dividend referred to in section 194 shall prepare, and within thirty days from the 31st day of March in each year, deliver or cause to be delivered to the Assessing Officer in the prescribed form and verified in the prescribed manner, a return in writing showing—

- (a) the name and address of every person who has furnished to him a statement under the first proviso to section 194;
- (b) the amount of the dividend paid or distributed during the financial year to each such person; and
- (c) such other particulars as may be prescribed.”

50. Inserted by the Finance Act, 1988, w.e.f. 1-6-1988.

51. See also Circular No. 585, dated 27-11-1990. For details, see Taxmann’s Master Guide to Income-tax Act.

52. Substituted for the following by the Finance Act, 1992, w.e.f. 1-4-1992. Earlier it was amended by the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1-6-1988 :

“(1) Every person, being a seller referred to in section 44AC, shall, at the time of debiting of the amount payable by the buyer referred to in that section to the account of the buyer or at the time of receipt of such amount from the said buyer in cash or by the issue of a cheque or draft or by any other mode, whichever is earlier, collect from the buyer of any goods of the nature specified in column (2) of the Table below, a sum equal to the percentage, specified in the corresponding entry in column (3) of the said Table, of such amount as income-tax on income comprised therein.

TABLE

<i>Sl. No.</i>	<i>Nature of goods</i>	<i>Percentage</i>
<i>(1)</i>	<i>(2)</i>	<i>(3)</i>
(i)	Alcoholic liquor for human consumption (other than Indian-made foreign liquor)	Fifteen per cent
(ii)	Timber obtained under a forest lease	Fifteen per cent
(iii)	Timber obtained by any mode other than under a forest lease	Five per cent
(iv)	Any other forest produce not being timber	Fifteen per cent:

(Contd. on p. 1.648)

percentage, specified in the corresponding entry in column (3) of the said Table, of such amount as income-tax:

⁵⁴[TABLE

<i>Sl. No.</i>	<i>Nature of Goods</i>	<i>Percentage</i>
(1)	(2)	(3)
(i)	Alcoholic liquor for human consumption (other than Indian-made foreign liquor) and tendu leaves	Ten per cent
(ii)	Timber obtained under a forest lease	Fifteen per cent
(iii)	Timber obtained by any mode other than under a forest lease	Five per cent
(iv)	Any other forest produce not being timber or tendu leaves	Fifteen per cent:]

Provided that where the Assessing Officer, on an application made by the buyer, gives a certificate in the prescribed form⁵⁵ that to the best of his belief any of the goods referred to in the aforesaid Table are to be utilised for the purposes of manufacturing, processing or producing articles or things and not for trading purposes, the provisions of this sub-section shall not apply so long as the certificate is in force.]

(2) The power to recover tax by collection under sub-section (1) shall be without prejudice to any other mode of recovery.

(3) Any person collecting any amount under sub-section (1) shall pay within seven days the amount so collected to the credit of the Central Government or as the Board directs.

(4) Any amount collected in accordance with the provisions of this section and paid under sub-section (3) shall be deemed as payment of tax on behalf of the person from whom the amount has been collected and credit shall be given to him for the amount so collected on the production of the certificate furnished

(Contd. from p. 1.647)

Provided that where the Assessing Officer, on an application made by the buyer, gives a certificate in the prescribed form that to the best of his belief any of the goods referred to in the aforesaid Table are to be utilised for the purposes of manufacturing, processing or producing articles or things and not for trading purposes, the provisions of this sub-section shall not apply so long as the certificate is in force.”

53. See rule 37C and Form No. 27C.

54. Substituted by the Finance (No. 2) Act, 1996, w.e.f. 1-10-1996. Prior to its substitution the Table read as under :

“TABLE

<i>Sl. No.</i>	<i>Nature of Goods</i>	<i>Percentage</i>
(1)	(2)	(3)
(i)	Alcoholic liquor for human consumption (other than Indian-made foreign liquor)	Fifteen per cent
(ii)	Timber obtained under a forest lease	Fifteen per cent
(iii)	Timber obtained by any mode other than under a forest lease	Five per cent
(iv)	Any other forest produce not being timber	Fifteen per cent:”

55. See rule 37C and Form No. 27C.

under sub-section (5) in the assessment made under this Act for the assessment year for which such income is assessable.

(5) Every person collecting tax in accordance with the provisions of this section shall within ten days from the date of debit or receipt of the amount furnish to the buyer to whose account such amount is debited or from whom such payment is received, a certificate to the effect that tax has been collected, and specifying the sum so collected, the rate at which the tax has been collected and such other particulars as may be prescribed⁵⁶.

⁵⁷[(5A) Every person collecting tax in accordance with the provisions of this section shall prepare half yearly returns for the period ending on 30th September and 31st March in each financial year, and deliver or cause to be delivered to the prescribed income-tax authority⁵⁸ such returns in such form and verified in such manner and setting forth such particulars and within such time as may be prescribed.⁵⁹]

^{59a}[(5B) *Notwithstanding anything contained in any other law for the time being in force, a return filed on a floppy, diskette, magnetic cartridge tape, CD-ROM or any other computer readable media as may be specified by the Board (hereinafter referred to as the computer media) shall be deemed to be a return for the purposes of sub-section (5A) and the rules made thereunder and shall be admissible in any proceedings thereunder, without further proof of production of the original, as evidence of any contents of the original or of any fact stated therein.*

(5C) *A return filed under sub-section (5B) shall fulfil the following conditions, namely:—*

- (a) *while receiving returns on computer media, necessary checks by scanning the documents filed on computer media will be carried out and the media will be duly authenticated by the Assessing Officer; and*
- (b) *the Assessing Officer shall also take due care to preserve the computer media by duplicating, transferring, mastering or storage without loss of data.]*

(6) Any person responsible for collecting the tax who fails to collect the tax in accordance with the provisions of this section, shall, notwithstanding such failure, be liable to pay the tax to the credit of the Central Government in accordance with the provisions of sub-section (3).

(7) Without prejudice to the provisions of sub-section (6), if the seller does not collect the tax or after collecting the tax fails to pay it as required under this

56. See rule 37D and Form No. 27D.

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

58. The prescribed authority under rule 37F is :

- (i) the Income-tax Officer, so designated by the Chief Commissioner or Commissioner of Income-tax within whose area of jurisdiction the office of the person responsible for collecting tax under Chapter XVII-BB is situated; or
- (ii) in any other case, to the Income-tax Officer within whose area of jurisdiction the office of person responsible for collecting tax is situated.

59. See rule 37E and Form Nos. 27EA to 27ED.

59a. Sub-sections (5B) and (5C) inserted by the Finance Act, 1999, w.e.f. 1-6-1999.

section, he shall be liable to pay simple interest at the rate of two per cent per month or part thereof on the amount of such tax from the date on which such tax was collectible to the date on which the tax was actually paid.

(8) Where the tax has not been paid as aforesaid, after it is collected, the amount of the tax together with the amount of simple interest thereon referred to in sub-section (7) shall be a charge upon all the assets of the seller.]

^{59b}[(9) *Where the Assessing Officer is satisfied that the total income of the buyer justifies the collection of the tax at any lower rate than the relevant rate specified in sub-section (1), the Assessing Officer shall, on an application made by the buyer in this behalf, give to him a certificate for collection of tax at such lower rate than the relevant rate specified in sub-section (1).*

(10) *Where a certificate under sub-section (9) is given, the person responsible for collecting the tax shall, until such certificate is cancelled by the Assessing Officer, collect the tax at the rates specified in such certificate.*

(11) *The Board may, having regard to the convenience of assessees and the interests of revenue, by notification in the Official Gazette, make rules specifying the cases in which, and the circumstances under which, an application may be made for the grant of a certificate under sub-section (9) and the conditions subject to which such certificate may be granted and providing for all other matters connected therewith.]*

⁶⁰[*Explanation.—For the purposes of this section,—*

- (a) “buyer” means a person who obtains in any sale, by way of auction, tender or any other mode, goods of the nature specified in the Table in sub-section (1) or the right to receive any such goods but does not include,—
 - (i) a public sector company,
 - (ii) a buyer in the further sale of such goods obtained in pursuance of such sale, or
 - (iii) a buyer where the goods are not obtained by him by way of auction and where the sale price of such goods to be sold by the buyer is fixed by or under any State Act;
- (b) “seller” means the Central Government, a State Government or any local authority or corporation or authority established by or under a Central, State or Provincial Act, or any company or firm or co-operative society.]

C.—Advance payment of tax

⁶¹[**Liability for payment of advance tax.**

207. Tax shall be payable in advance during any financial year, in accordance with the provisions of sections 208 to 219 (both inclusive), in respect of the total income of the assessee which would be chargeable to tax for the assessment

^{59b} Sub-sections (9), (10) and (11) inserted by the Finance Act, 1999, w.e.f. 1-6-1999.

⁶⁰ Inserted by the Finance Act, 1992, w.e.f. 1-4-1992.

⁶¹ Substituted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988. Original section 207 was earlier amended by the Finance Act, 1972, w.e.f. 1-4-1972.

year immediately following that financial year, such income being hereafter in this Chapter referred to as “current income”.]

⁶²[**Conditions of liability to pay advance tax.**

208. Advance tax shall be payable during a financial year in every case where the amount of such tax payable by the assessee during that year, as computed in accordance with the provisions of this Chapter, is ⁶³[five thousand] rupees or more.]

Computation of advance tax.

209. ⁶⁴[(1) The amount of advance tax payable by an assessee in the financial year shall, subject to the provisions of sub-sections (2) and (3), be computed as follows, namely :—

62. Substituted for the following section 208 by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988:

“(1) Advance tax shall be payable during the financial year—

(a) where the total income, exclusive of capital gains and income referred to in sub-clause (ix) of clause (24) of section 2, of the assessee, referred to in sub-clause (i) of clause (a) of sub-section (1) of section 209, exceeds the amount specified in sub-section (2),
or

(b) where it is payable by virtue of the provisions of section 209A.

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

(a) in the case of a company or a local authority Rs. 2,500

(b) in the case of a registered firm Rs. 20,000

(c) in the case of a Hindu undivided family which at any time during the previous year has at least one member whose total income of the previous year exceeds Rs. 18,000 Rs. 12,000

(d) in any other case Rs. 18,000.

(3) Notwithstanding anything contained in the foregoing provisions of this section, where in the case of an assessee referred to in clause (c) or clause (d) of sub-section (2), the amount of advance tax payable by him during the financial year, as computed in accordance with the provisions of this section, does not exceed fifteen hundred rupees, it shall not be necessary for such assessee to pay any advance tax during that financial year.”

Prior to the substitution by the said Amendment Act, section 208 was first substituted by the Finance Act, 1969, w.e.f. 1-4-1969 and was later amended by the Finance Act, 1972, w.e.f. 1-4-1972, the Finance (No. 2) Act, 1977, w.e.f. 1-9-1977, the Finance Act, 1978, w.e.f. 1-6-1978, the Finance Act, 1979, w.e.f. 1-4-1979, the Finance (No. 2) Act, 1980, w.e.f. 1-9-1980, the Finance Act, 1981, w.e.f. 1-6-1981, the Taxation Laws (Amendment) Act, 1984, w.e.f. 2-4-1985 and the Finance Act, 1985, w.e.f. 24-5-1985.

63. Substituted for “one thousand five hundred” by the Finance (No. 2) Act, 1996, w.e.f. 1-10-1996.

64. Substituted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988. Sub-section (1) was earlier amended by the Finance Act, 1963, w.e.f. 1-4-1963, the Finance Act, 1964, with retrospective effect from 1-4-1963, the Direct Taxes (Amendment) Act, 1964, w.e.f. 6-10-1964, the Finance Act, 1965, w.e.f. 1-4-1965, the Finance (No. 2) Act, 1967, w.e.f. 1-4-1967, the Finance Act, 1969, w.e.f. 1-4-1969, the Taxation Laws (Amendment) Act, 1970, w.e.f. 1-4-1971, the Finance Act, 1972, w.e.f. 1-4-1972, the Finance Act, 1973, w.e.f. 1-4-1973, the Finance Act, 1974, w.e.f. 1-4-1974 and the Finance Act, 1978, w.e.f. 1-6-1978. Prior to its substitution, sub-section (1) stood as under :

“(1) The amount of advance tax payable by an assessee in the financial year shall, subject to the provisions of sub-sections (2) and (3), be computed as follows :—

(a) (i) his total income of the latest previous year in respect of which he has been assessed by way of regular assessment shall first be ascertained ;

(Contd. on p. 1.652)

- (a) where the calculation is made by the assessee for the purposes of payment of advance tax under sub-section (1) or sub-section (2) or sub-section (5) or sub-section (6) of section 210, he shall first estimate his current income and income-tax thereon shall be calculated at the rates in force in the financial year;
- (b) where the calculation is made by the Assessing Officer for the purpose of making an order under sub-section (3) of section 210, the total income of the latest previous year in respect of which the assessee has been assessed by way of regular assessment or the total income returned by the assessee in any return of income furnished by him for any subsequent previous year, whichever is higher, shall be taken and income-tax thereon shall be calculated at the rates in force in the financial year;

(Contd. from p. 1.651)

- (ii) the amount of capital gains and income referred to in sub-clause (ix) of clause (24) of section 2, if any, included in such total income shall be deducted therefrom, and on the balance income-tax shall be calculated at the rates in force in the financial year;
- (iii) the income-tax so calculated shall be reduced by the amount of income-tax which would be deductible during the said financial year in accordance with the provisions of sections 192 to 194, section 194A, section 194C, section 194D and section 195 on any income (as computed before allowing any deductions admissible under this Act) on which tax is required to be deducted under the said sections and which has been taken into account in computing the said total income;
- (iv) the net amount of income-tax calculated in accordance with sub-clause (iii) shall, subject to the provisions of clauses (c) and (d), be the advance tax payable;
- (b) [* * *]
- (c) in cases where an estimate (including a revised estimate) is sent by the assessee under section 209A or section 212, the total income so estimated shall, for the purposes of calculation of tax under this section, be substituted for the total income referred to in clause (a);
- (d) in cases where—
- (i) the total income of the latest previous year [being a year later than the previous year referred to in clause (a)] on the basis of which tax has been paid by the assessee under section 140A exceeds the total income referred to in clause (a), or
- (ii) the Income-tax Officer makes an amended order referred to in sub-section (3) of section 210 on the basis of the total income on which tax has been paid by the assessee under section 140A,
- the total income referred to in clause (a) shall be substituted,—
- (1) in a case falling under sub-clause (i), by the total income on the basis of which tax has been paid under section 140A, and
- (2) in a case falling under sub-clause (ii), by the total income on the basis of which the amended order under sub-section (3) of section 210 is made.

Explanation.—If the assessee is a partner of a registered firm and an assessment of the firm has been completed for a previous year later than the latest previous year for which the assessee's assessment has been completed, his share in the income of the firm shall, for the purposes of clause (a), be included in his total income on the basis of the said assessment of the firm."

- (c) where the calculation is made by the Assessing Officer for the purpose of making an amended order under sub-section (4) of section 210, the total income declared in the return furnished by the assessee for the later previous year, or, as the case may be, the total income in respect of which the regular assessment, referred to in that sub-section has been made, shall be taken and income-tax thereon shall be calculated at the rates in force in the financial year;
- (d) the income-tax calculated under clause (a) or clause (b) or clause (c) shall, in each case, be reduced by the amount of income-tax which would be deductible ⁶⁵[or collectible] at source during the said financial year under any provision of this Act from any income (as computed before allowing any deductions admissible under this Act) which has been taken into account in computing the current income or, as the case may be, the total income aforesaid; and the amount of income-tax as so reduced shall be the advance tax payable.]

⁶⁶[(2) Where the Finance Act of the relevant year provides that, in the case of any class of assessee, net agricultural income (as defined in that Act) shall be taken into account for the purposes of computing advance tax, then, the net agricultural income to be taken into account in the case of any assessee falling in that class, shall be—

- (a) in cases ⁶⁷[where the Assessing Officer makes an order under sub-section (3) or sub-section (4) of section 210],—
- (i) if the total income of the latest previous year in respect of which the assessee has been assessed by way of regular assessment forms the basis of computation of advance tax payable by him, the net agricultural income which has been taken into account for the purposes of charging income-tax for the assessment year relevant to that previous year; or
- ⁶⁸[(ii) if the total income declared by the assessee for the later previous year referred to in sub-section (4) of section 210 forms the basis of computation of advance tax, the net agricultural income as returned by the assessee in the return of income for the assessment year relevant to such later previous year;]

65. Inserted by the Direct Tax Laws (Amendment) Act, 1989, with retrospective effect from 1-6-1988.

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

67. Substituted for “*where the assessee sends a statement under sub-section (1) of section 209A or where the Income-tax Officer makes an order under sub-section (1) or sub-section (3) of section 210*” by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988. Earlier, italicised words were inserted by the Finance Act, 1978, w.e.f. 1-6-1978.

68. Substituted for the following by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988:

“(ii) if the total income of the previous year on the basis of which tax has been paid by the assessee under section 140A forms the basis of computation of advance tax, the net agricultural income as returned by the assessee in the return of income for the assessment year relevant to that previous year;”

⁶⁹[(b) in cases where the advance tax is paid by the assessee on the basis of his estimate of his current income under sub-section (1) or sub-section (2) or sub-section (5) or sub-section (6) of section 210, the net agricultural income, as estimated by him, of the period which would be the previous year for the immediately following assessment year.]

(3) Where the Finance Act of the relevant year specifies any separate rate or rates for the purposes of computing advance tax in the case of every Hindu undivided family which has at least one member whose total income of the previous year exceeds the maximum amount not chargeable to income-tax in his case, then, the ⁷⁰[Assessing] Officer shall, for making an order under ⁷¹[sub-section (3) or sub-section (4) of] section 210 in the case of any such Hindu undivided family, compute (subject to the provisions of section 164) the advance tax at such rate or rates—

(a) in a case where the total income of the latest previous year in respect of which the Hindu undivided family has been assessed by way of regular assessment forms the basis of computation of advance tax, if the total income of any member of the family for the assessment year relevant to such latest previous year exceeds the maximum amount not chargeable to income-tax in his case;

(b) in a case where the total income of the previous year ⁷²[in respect of which a return of income is furnished by the Hindu undivided family under section 139 or in response to a notice under sub-section (1) of section 142] forms the basis of computation of advance tax, if the total income of any member of the family for the assessment year relevant to such previous year exceeds the maximum amount not chargeable to income-tax in his case.

Computation and payment of advance tax by assessee.

⁷³209A. [Omitted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988. Original section was inserted by the Finance Act, 1978, w.e.f. 1-6-1978]

69. Substituted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988 for the following clause (b) as amended by the Finance Act, 1978, w.e.f. 1-6-1978:

“(b) in cases where an estimate (including a revised estimate) is sent by the assessee under section 209A or section 212, the net agricultural income, as estimated by him, of the period which would be the previous year for the immediately following assessment year.”

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

71. Inserted, *ibid*.

72. Substituted for “on the basis of which tax has been paid by the Hindu undivided family under section 140A”, *ibid*.

73. Omitted section 209A, as amended by the Finance Act, 1979, w.e.f. 1-4-1979 and the Finance (No. 2) Act, 1980, w.e.f. 1-9-1980, stood as under :

(Contd. on p. 1.655)

(Contd. from p. 1.654)

‘(1) Every person shall, in each financial year, on or before the date on which the first instalment, or where he has not previously been assessed by way of regular assessment under this Act, on or before the date on which the last instalment of advance tax is due in his case under sub-section (1) of section 211, if his current income is likely to exceed the amount specified in sub-section (2) of section 208, send to the Income-tax Officer—

- (a) where he has been previously assessed by way of regular assessment under this Act, a statement of advance tax payable by him computed in the manner laid down in clause (a) or, as the case may be, sub-clause (i) of clause (d) of sub-section (1) of section 209, or
- (b) where he has not previously been assessed by way of regular assessment under this Act, an estimate of—
 - (i) the current income, and
 - (ii) the advance tax payable by him on the current income calculated in the manner laid down in section 209,

and shall pay such amount of advance tax,—

- (I) in a case falling under clause (a), as accords with the statement in equal instalments on the dates applicable in his case under section 211; and
- (II) in a case falling under clause (b), as accords with the estimate in equal instalments on such of the dates applicable in his case as have not expired, or in one sum if only the last of such dates has not expired.

(2) Where an assessee who is required to send a statement under clause (a) of sub-section (1) estimates on or before the date on which the first instalment of advance tax is due in his case under sub-section (1) of section 211 that, by reason of his current income being likely to be less than the income on which advance tax is payable by him under sub-section (1) or for any other reason, the amount of advance tax computed in the manner laid down in section 209 on the current income would be less than the amount of advance tax payable by him under sub-section (1), he may send to the Income-tax Officer, in lieu of such statement, an estimate of—

- (i) the current income, and
- (ii) the advance tax payable by him on the current income calculated in the manner laid down in section 209,

and shall pay such amount of advance tax as accords with his estimate in equal instalments on the dates applicable in his case under section 211.

(3) Where an assessee who has sent a statement under clause (a) of sub-section (1) estimates on or before the date on which the last instalment of advance tax is due in his case that, by reason of his current income being likely to be less than the income on which advance tax is payable by him under sub-section (1) or for any other reason, the amount of advance tax computed in the manner laid down in section 209 on the current income would be less than the amount of advance tax payable by him under sub-section (1), he may, at his option, send to the Income-tax Officer an estimate of—

- (i) the current income, and
- (ii) the advance tax payable by him on the current income calculated in the manner laid down in section 209,

and shall pay such amount of advance tax as accords with his estimate in equal instalments on such of the dates applicable in his case under section 211 as have not expired, or in one sum if only the last of such dates has not expired.

(4) In the case of any assessee who is liable to pay advance tax under sub-section (1) or sub-section (2) or, as the case may be, sub-section (3), if, by reason of the current income being likely to be greater than the income on which the advance tax so payable by him has been computed or for any other reason, the amount of advance tax computed in the manner laid down in section 209 on the current income (which shall be estimated by the assessee) exceeds the amount of advance tax so payable by him by more than 33¹/₃ per cent of the latter amount, he shall on or before the date on which the last instalment of advance tax is payable by him, send to the Income-tax Officer an estimate of—

(Contd. on p. 1.656)

⁷⁴[Payment of advance tax by the assessee of his own accord or in pursuance of order of Assessing Officer.

⁷⁵210. (1) Every person who is liable to pay advance tax under section 208 (whether or not he has been previously assessed by way of regular assessment) shall, of his own accord, pay, on or before each of the due dates specified in section 211, the appropriate percentage, specified in that section, of the advance tax on his current income, calculated in the manner laid down in section 209.

(Contd. from p. 1.655)

- (i) the current income, and
- (ii) the advance tax payable by him on the current income calculated in the manner laid down in section 209,

and shall pay such amount of advance tax as accords with his estimate on such of the dates applicable in his case under section 211 as have not expired, by instalments which may be revised according to sub-section (5) :

Provided that in a case where the Commissioner is satisfied that, having regard to the nature of the business carried on by the assessee and the date of expiry of the previous year in respect of such business, it will be difficult for the assessee to furnish the estimate required to be furnished by him in accordance with the provisions of this sub-section on or before the date on which the last instalment of advance tax is due in his case, he may, if the assessee pays the advance tax which he is liable to pay under sub-section (1) or sub-section (2) or, as the case may be, sub-section (3) on or before such date extend the date for furnishing such estimate up to a period of thirty days immediately following the last date of the previous year in respect of that business and, where the date is so extended, the assessee shall pay, on or before the date as so extended, the amount by which the advance tax already paid by him falls short of the advance tax payable in accordance with his estimate :

Provided further that in the case of an assessee, being a company, the provisions of this sub-section shall have effect as if for the figures and words “33¹/₃ per cent”, the figures and words “20 per cent” had been substituted.

(5) The assessee may send a revised estimate of the advance tax payable by him on or before any one of the dates specified in section 211 and adjust any excess or deficiency in respect of any instalment already paid in a subsequent instalment or in subsequent instalments.

(6) Every statement or estimate under this section shall be sent in the prescribed form and verified in the prescribed manner.

Explanation.—For the purposes of this section and section 212, “current income”, in relation to the advance tax payable by an assessee during any financial year, means the total income of the assessee (exclusive of capital gains and income referred to in sub-clause (ix) of clause (24) of section 2, if any) of the period which would be the previous year for the assessment year immediately following that financial year. ’

74. Substituted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988. Earlier, it was amended by the Finance Act, 1963, w.e.f. 1-4-1963, the Direct Taxes (Amendment) Act, 1964, w.e.f. 6-10-1964, the Finance Act, 1969, w.e.f. 1-4-1969 and the Taxation Laws (Amendment) Act, 1970, w.e.f. 1-4-1971. Prior to its substitution, section 210 stood as under :

“Order by Income-tax Officer.—(1) Where a person has been previously assessed by way of regular assessment under this Act or under the Indian Income-tax Act, 1922 (11 of 1922), the Income-tax Officer may, on or after the 1st day of April in the financial year, by order in writing, require him to pay to the credit of the Central Government advance tax determined in accordance with the provisions of sections 207, 208 and 209.

(2) The notice of demand issued under section 156 in pursuance of such order shall specify the instalments in which the advance tax is payable under section 211.

(Contd. on p. 1.657)

(2) A person who pays any instalment or instalments of advance tax under sub-section (1), may increase or reduce the amount of advance tax payable in the remaining instalment or instalments to accord with his estimate of his current income and the advance tax payable thereon, and make payment of the said amount in the remaining instalment or instalments accordingly.

(3) In the case of a person who has been already assessed by way of regular assessment in respect of the total income of any previous year and who has not paid any advance tax under sub-section (1), the Assessing Officer, if he is of opinion that such person is liable to pay advance tax, may, at any time during the financial year but not later than the last day of February, by order in writing, require such person to pay advance tax calculated in the manner laid down in section 209, and issue to such person a notice of demand under section 156 specifying the instalment or instalments in which such tax is to be paid.

(4) If, after the making of an order by the Assessing Officer under sub-section (3) and at any time before the 1st day of March, a return of income is furnished by the assessee under section 139 or in response to a notice under sub-section (1) of section 142, or a regular assessment of the assessee is made in respect of a previous year later than that referred to in sub-section (3), the Assessing Officer may make an amended order and issue to such assessee a notice of demand under section 156 requiring the assessee to pay, on or before the due date or each of the due dates specified in section 211 falling after the date of the amended order, the appropriate percentage, specified in section 211, of the advance tax computed on the basis of the total income declared in such return or in respect of which the regular assessment aforesaid has been made.

(5) A person who is served with an order of the Assessing Officer under sub-section (3) or an amended order under sub-section (4) may, if in his estimation the advance tax payable on his current income would be less than the amount of the advance tax specified in such order or amended order, send an intimation in the prescribed form⁷⁶ to the Assessing Officer to that effect and pay such advance tax as accords with his estimate, calculated in the manner laid down in

(Contd. from p. 1.656)

(3) If, after the making of an order by the Income-tax Officer under this section and at any time before the date which is fifteen days prior to the date on which the last instalment of advance tax is payable by the assessee under sub-section (1) of section 211, tax is paid by the assessee under section 140A or a regular assessment of the assessee (or of the registered firm of which he is a partner) is made in respect of a previous year later than that referred to in the order of the Income-tax Officer, the Income-tax Officer may make an amended order requiring the assessee to pay in one instalment on the specified date or in equal instalments on the specified dates, if more than one, falling after the date of the amended order, the advance tax computed on the basis of the total income on which tax has been paid under section 140A or in respect of which the regular assessment aforesaid has been made as reduced by the amount, if any, paid in accordance with the original order.”

75. See also Circular No. 709, dated 19-7-1995. For details, see Taxmann's Master Guide to Income-tax Act.

76. See rule 39 and Form No. 28A for form of estimate of advance tax.

section 209, at the appropriate percentage thereof specified in section 211, on or before the due date or each of the due dates specified in section 211 falling after the date of such intimation.

(6) A person who is served with an order of the Assessing Officer under sub-section (3) or amended order under sub-section (4) shall, if in his estimation the advance tax payable on his current income would exceed the amount of advance tax specified in such order or amended order or intimated by him under sub-section (5), pay on or before the due date of the last instalment specified in section 211, the appropriate part or, as the case may be, the whole of such higher amount of advance tax as accords with his estimate, calculated in the manner laid down in section 209.]

⁷⁷[**Instalments of advance tax and due dates.**⁷⁸

211. ⁷⁹[(1) Advance tax on the current income calculated in the manner laid down in section 209 shall be payable by—

77. Substituted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988. Earlier, it was amended by the Finance Act, 1969, w.e.f. 1-4-1969, the Finance Act, 1972, w.e.f. 1-4-1972 and the Finance Act, 1978, w.e.f. 1-6-1978. Prior to its substitution, section 211 stood as under :

'Instalments of advance tax.—(1) Subject to the provisions of this section and of sections 209A and 212, advance tax shall be payable in three equal instalments on the following dates during the financial year, namely :—

- (i) the 15th day of June, the 15th day of September and the 15th day of December, in the case of an assessee whose total income to the extent of 75 per cent thereof or more is derived from a source or sources for which the previous year (relevant to the assessment year next following the financial year aforesaid) ends on or before the 31st day of December ;
- (ii) the 15th day of September, the 15th day of December and the 15th day of March, in any other case :

Provided that in respect of any class of assessee referred to in clause (i), the Board may, having regard to the nature of dealings in the business carried on by such assessee, the method of accounting followed by them and other relevant factors, authorise, by notification in the Official Gazette and subject to such conditions as may be specified therein, the payment of the last instalment of the advance tax on the 15th day of March during the financial year, instead of on the 15th day of December.

Explanation.—In this sub-section, “total income” means,—

- (a) in a case where the advance tax is paid by the assessee in accordance with the statement sent by him under sub-section (1) of section 209A or in accordance with an order of the Income-tax Officer under section 210, the total income with reference to which the advance tax payable has been calculated in such statement or order ;
- (b) in a case where the advance tax is paid in accordance with an estimate (including a revised estimate) made by the assessee under section 209A or section 212, the total income with reference to which the advance tax is so estimated,

as reduced, in either case, by the amount of capital gain and income referred to in sub-clause (ix) of clause (24) of section 2, if any, included therein.

(2) If the notice of demand issued under section 156 in pursuance of the order under section 210 is served after any of the dates on which the instalments specified therein are payable, the advance tax shall be payable in equal instalments on each of such of those dates as fall after the date of the service of the notice of demand, or in one sum on the 15th day of March, if the notice is served after the 15th day of December.’

(Contd. on p. 1.659)

- (a) all the companies, who are liable to pay the same, in four instalments during each financial year and the due date of each instalment and the amount of such instalment shall be as specified in Table I below :

TABLE I

<i>Due date of instalment</i>	<i>Amount payable</i>
On or before the 15th June	Not less than fifteen per cent of such advance tax.
On or before the 15th September	Not less than forty-five per cent of such advance tax, as reduced by the amount, if any, paid in the earlier instalment.
On or before the 15th December	Not less than seventy-five per cent of such advance tax, as reduced by the amount or amounts, if any, paid in the earlier instalment or instalments.
On or before the 15th March	The whole amount of such advance tax as reduced by the amount or amounts, if any, paid in the earlier instalment or instalments.

(Contd. from p. 1.658)

78. See Circular No. 676, dated 14-1-1994, Circular No. 697, dated 16-12-1994 and Circular No. 709, dated 19-7-1995. For details, see Taxmann's Master Guide to Income-tax Act.
79. Substituted by the Finance Act, 1994, w.e.f. 1-4-1994. Prior to its substitution, sub-section (1), as substituted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988 and later amended by the Finance Act, 1992, w.e.f. 1-4-1992, read as under :
 "(1) Advance tax on the current income, calculated in the manner laid down in section 209 shall be payable by all the assesseees who are liable to pay the same in three instalments during each financial year, the due date of, and the amount payable in, each such instalment being as specified in the following Table :

TABLE

<i>Due date of instalment</i>	<i>Amount payable</i>
On or before the 15th September	Not less than thirty per cent of such advance tax.
On or before the 15th December	Not less than sixty per cent of such advance tax, as reduced by the amount, if any, paid in the earlier instalment.
On or before the 15th March	The whole amount of such advance tax as reduced by the amount or amounts, if any, paid in the earlier instalment or instalments:

Provided that any amount paid by way of advance tax on or before the 31st day of March shall also be treated as advance tax paid during the financial year ending on that day for all the purposes of this Act."

- (b) all the assessees (other than companies), who are liable to pay the same, in three instalments during each financial year and the due date of each instalment and the amount of such instalment shall be as specified in Table II below :

TABLE II

<i>Due date of instalment</i>	<i>Amount payable</i>
On or before the 15th September	Not less than thirty per cent of such advance tax.
On or before the 15th December	Not less than sixty per cent of such advance tax, as reduced by the amount, if any, paid in the earlier instalment.
On or before the 15th March	The whole amount of such advance tax as reduced by the amount or amounts, if any, paid in the earlier instalment or instalments :

Provided that any amount paid by way of advance tax on or before the 31st day of March shall also be treated as advance tax paid during the financial year ending on that day for all the purposes of this Act.]

(2) If the notice of demand issued under section 156 in pursuance of an order of the Assessing Officer under sub-section (3) or sub-section (4) of section 210 is served after any of the due dates specified in sub-section (1), the appropriate part or, as the case may be, the whole of the amount of the advance tax specified in such notice shall be payable on or before each of such of those dates as fall after the date of service of the notice of demand.]

Estimate by assessee.

⁸⁰212. [Omitted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988.]

80. Prior to its omission, section 212 stood as under :

‘(1) If any assessee who is required to pay advance tax by an order under section 210 estimates on or before the date on which the last instalment of advance tax is due in his case that, by reason of his current income being likely to be less than the income on which the advance tax payable by him under section 210 has been computed or for any other reason, the advance tax payable by him would be less than the amount which he is so required to pay, he may, at his option, send to the Income-tax Officer an estimate of—

- (i) the current income, and
- (ii) the advance tax payable by him on the current income calculated in the manner laid down in section 209,

and shall pay such amount of advance tax as accords with his estimate in equal instalments on such of the dates applicable in his case under section 211 as have not expired, or in one sum if only the last of such dates has not expired.

(2) The assessee may send a revised estimate of the advance tax payable by him on or before any one of the dates specified in section 211 and adjust any excess or deficiency in respect of any instalment already paid in a subsequent instalment or in subsequent instalments.

(3) [***]

(Contd. on p. 1.661)

Commission receipts.

⁸¹213. [Omitted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988.]

(Contd. from p. 1.660)

(3A) In the case of any assessee who is required to pay advance tax by an order under section 210, if, by reason of the current income being likely to be greater than the income on which the advance tax payable by him under section 210 has been computed or for any other reason, the amount of advance tax computed in the manner laid down in section 209 on the current income (which shall be estimated by the assessee) exceeds the amount of advance tax demanded from him under section 210 by more than $33\frac{1}{3}$ per cent of the latter amount, he shall, on or before the date on which the last instalment of advance tax is due from him, send to the Income-tax Officer an estimate of—

- (i) the current income, and
- (ii) the advance tax payable by him on the current income calculated in the manner laid down in section 209,

and shall pay such amount of advance tax as accords with his estimate on such of the dates applicable in his case under section 211 as have not expired, by instalments which may be revised according to sub-section (2) :

Provided that in a case where the Commissioner is satisfied that, having regard to the nature of the business carried on by the assessee and the date of expiry of the previous year in respect of such business, it will be difficult for the assessee to furnish the estimate required to be furnished by him in accordance with the provisions of this sub-section on or before the date on which the last instalment of advance tax is due in his case, he may, if the assessee pays the advance tax demanded from him under section 210 before such date, extend the date for furnishing such estimate up to a period of thirty days immediately following the last date of the previous year in respect of that business, and where the date is so extended, the assessee shall pay, on or before the date as so extended, the amount by which the amount of advance tax already paid by him falls short of the advance tax payable in accordance with his estimate :

Provided further that in the case of an assessee, being a company, the provisions of this sub-section shall have effect as if for the figures and words “ $33\frac{1}{3}$ per cent”, the figures and words “20 per cent” had been substituted.

(4) Every estimate under this section shall be sent in the prescribed form and verified in the prescribed manner.’

Earlier, it was amended by the Finance Act, 1969, w.e.f. 1-4-1969, the Finance Act, 1970, w.e.f. 1-4-1970, the Finance Act, 1972, w.e.f. 1-4-1972, the Finance Act, 1978, w.e.f. 1-6-1978, the Finance Act, 1979, w.e.f. 1-4-1979 and the Finance (No. 2) Act, 1980, w.e.f. 1-9-1980.

81. Prior to its omission, section 213 stood as under :

“213. *Commission receipts.*—Where part of the income subject to advance tax consists of any income of the nature of commission which is receivable periodically and is not received or adjusted by the payer in the assessee’s account before any of the instalments of advance tax become due, he may defer payment of advance tax on that part of his income to the date on which such income would be normally received or adjusted, and, if he does so, he shall communicate to the Income-tax Officer the date to which such payment is deferred :

Provided that, if the advance tax of which the payment is deferred is not paid within fifteen days of the date on which such income or part thereof is received or adjusted by the payer in the assessee’s account, the advance tax shall payable with fifteen per cent simple interest per annum from the date of such receipt or adjustment to the date of payment of the advance tax.”

Earlier, it was amended by the Finance Act, 1965, w.e.f. 1-4-1965, the Taxation Laws (Amendment) Act, 1967, w.e.f. 1-10-1967, the Finance Act, 1969, w.e.f. 1-4-1969, the Finance Act, 1972, w.e.f. 1-4-1972 and the Taxation Laws (Amendment) Act, 1984, w.e.f. 1-10-1984.

⁸²Interest payable by Government.

⁸³**214.** (1) The Central Government shall pay simple interest at ⁸⁴[fifteen] per cent per annum on the amount by which the aggregate sum of any instalments of advance tax paid during any financial year in which they are payable under sections 207 to 213 exceeds the amount of the ⁸⁵[assessed tax] from the 1st day of April next following the said financial year to the date of the regular assessment for the assessment year immediately following the said financial year, and where any such instalment is paid after the expiry of the financial year, during which it is payable by reason of the provisions of section 213, interest as aforesaid shall also be payable on that instalment from the date of its payment to the date of regular assessment :

⁸⁶[**Provided** that in respect of any amount refunded on a provisional assessment under section 141A, no interest shall be paid for any period after the date of such provisional assessment.]

⁸⁷[(1A) Where as a result of an order under section 147 or section 154 or section 155 or section 250 or section 254 or section 260 or section 262 or section 263 or section 264 ⁸⁸[or an order of the Settlement Commission under sub-section (4) of section 245D], the amount on which interest was payable under sub-section (1) has been increased or reduced, as the case may be, the interest shall be increased or reduced accordingly, and in a case where the interest is reduced, the ⁸⁹[Assessing] Officer shall serve on the assessee, a notice of demand in the prescribed form specifying the amount of the excess interest payable and requiring him to pay such amount ; and such notice of demand shall be deemed to be a notice under section 156 and the provisions of this Act shall apply accordingly.]

82. See rule 119A.

83. See also Letter [F.No. 12/80/64-IT(B)], dated 1-3-1965, Letter [F.No. 400/59/75-ITCC], dated 10-10-1973, Letter [F.No. 12/12/68-IT(A-II)], dated 11-12-1968 and Instruction No. 947, dated 23-4-1976. For details, see Taxmann's Master Guide to Income-tax Act.

84. Substituted for "twelve" by the Taxation Laws (Amendment) Act, 1984, w.e.f. 1-10-1984 ; section 84 of the Amendment Act has clarified that the increase in the rate of interest will apply in respect of any period falling after 30-9-1984 and also in those cases where the interest became chargeable or payable from an earlier date. Earlier, "twelve" was substituted for "nine" by the Finance Act, 1972, w.e.f. 1-4-1972, "nine" was substituted for "six" by the Taxation Laws (Amendment) Act, 1967, w.e.f. 1-10-1967 and "six" was substituted for "four" by the Finance Act, 1965, w.e.f. 1-4-1965.

85. Substituted for "tax determined on regular assessment" by the Taxation Laws (Amendment) Act, 1984, w.e.f. 1-4-1985.

86. Inserted by the Finance Act, 1968, w.e.f. 1-4-1968.

87. Substituted by the Taxation Laws (Amendment) Act, 1984, w.e.f. 1-4-1985. Original sub-section (1A) was inserted by the Finance Act, 1968, w.e.f. 1-4-1968 which read as under : "(1A) Where on completion of the regular assessment the amount on which interest was paid under sub-section (1) has been reduced, the interest shall be reduced accordingly and the excess, if any, paid shall be deemed to be tax payable by the assessee and the provisions of this Act, shall apply accordingly."

88. Inserted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989.

89. Substituted for "Income-tax", *ibid.*, w.e.f. 1-4-1988.

(2) On any portion of such amount which is refunded under this Chapter, interest shall be payable only up to the date on which the refund was made.

⁹⁰[(3) This section and sections 215, 216 and 217 shall not apply in respect of any assessment for the assessment year commencing on the 1st day of April, 1989, or any subsequent assessment year and, in the application of the said sections to the assessment for any earlier assessment year, references therein [except in sub-section (1A) and sub-section (3) of section 215] to the other provisions of this Act shall be construed as references to those provisions as for the time being in force and applicable to the relevant assessment year.]

⁹¹[*Explanation 1.*—In this section, “assessed tax” shall have the same meaning as in sub-section (5) of section 215.

Explanation 2.—Where, in relation to an assessment year, an assessment is made for the first time under section 147, the assessment so made shall be regarded as a regular assessment for the purposes of this section.]

Interest payable by assessee.

⁹²**215.** ⁹³[⁹⁴(1) Where, in any financial year, an assessee has paid ⁹⁵[advance tax under section 209A or section 212 on the basis of his own estimate (including revised estimate)], and the advance tax so paid is less than seventy-five per cent of the assessed tax, simple interest at the rate of ⁹⁶[fifteen] per cent per annum from the 1st day of April next following the said financial year up to the date of the regular assessment shall be payable by the assessee upon the amount by which the advance tax so paid falls short of the assessed tax :]

⁹⁷[**Provided** that in the case of an assessee, being a company, the provisions of this sub-section shall have effect as if for the words “seventy-five per cent”, the words “eighty-three and one-third per cent” had been substituted.]

⁹⁸[(2) Where before the date of completion of a regular assessment, tax is paid by the assessee under section 140A or otherwise,—

- (i) interest shall be calculated in accordance with the foregoing provision up to the date on which the tax is so paid ; and

90. Inserted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989.

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

92. See also Letter [F.No. 400/40/73-ITCC], dated 19-10-1973 and Circular No. 492, dated 21-7-1987. For details, see Taxmann’s Master Guide to Income-tax Act.

93. Substituted by the Finance Act, 1969, w.e.f. 1-4-1970.

94. See rules 40 and 119A.

95. Substituted for “advance tax under section 212 on the basis of his own estimate” by the Finance Act, 1978, w.e.f. 1-6-1978.

96. Substituted for “twelve” by the Taxation Laws (Amendment) Act, 1984, w.e.f. 1-10-1984 ; section 84 of the Amendment Act has clarified that the increase in the rate of interest will apply in respect of any period falling after 30-9-1984 and also in those cases where the interest became chargeable or payable from an earlier date. Earlier, “twelve” was substituted for “nine” by the Finance Act, 1972, w.e.f. 1-4-1972.

97. Inserted by the Finance (No. 2) Act, 1980, w.e.f. 1-9-1980.

98. Substituted by the Taxation Laws (Amendment) Act, 1970, w.e.f. 1-4-1971. Initially, sub-section (2) was substituted by the Finance Act, 1963, w.e.f. 1-4-1963 which was later on amended by the Finance Act, 1969, w.e.f. 1-4-1970.

(ii) thereafter, interest shall be calculated at the rate aforesaid on the amount by which the tax as so paid (in so far as it relates to income subject to advance tax) falls short of the assessed tax.]

⁹⁹[(3) Where as a result of an order under section 147 or section 154 or section 155 or section 250 or section 254 or section 260 or section 262 or section 263 or section 264 ¹[or an order of the Settlement Commission under sub-section (4) of section 245D], the amount on which interest was payable under sub-section (1) has been increased or reduced, as the case may be, the interest shall be increased or reduced accordingly, and—

(i) in a case where the interest is increased, the ²[Assessing] Officer shall serve on the assessee, a notice of demand in the prescribed form specifying the sum payable, and such notice of demand shall be deemed to be a notice under section 156 and the provisions of this Act shall apply accordingly ;

(ii) in a case where the interest is reduced, the excess interest paid, if any, shall be refunded.]

(4) In such cases and under such circumstances as may be prescribed³, the ²[Assessing] Officer may reduce or waive the interest payable by the assessee under this section.

⁴[(5) In this section and sections 217 and 273, “assessed tax” means the tax determined on the basis of the regular assessment (reduced by the amount of tax deductible in accordance with the provisions of sections 192 to 194, section 194A ⁵[, section 194C] ⁶[, section 194D] ⁷[, section 195 and section 196A] so far as such tax relates to income subject to advance tax and so far as it is not due to variations in the rates of tax made by the Finance Act enacted for the year for which the regular assessment is made.)]

⁸[(6) Where, in relation to an assessment year, an assessment is made for the first time under section 147, the assessment so made shall be regarded as a regular assessment for the purposes of this section and sections 216, 217 and 273.]

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

1. Inserted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989.

2. Substituted for “Income-tax”, *ibid.*, w.e.f. 1-4-1988.

3. See rule 40.

4. Inserted by the Finance Act, 1969, w.e.f. 1-4-1970.

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

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

7. Substituted for “and section 195” by the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1-4-1989.

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

⁹Interest payable by assessee in case of under-estimate, etc.

¹⁰**216.** Where, on making the regular assessment, the ¹¹[Assessing] Officer finds that any assessee has—

- ¹²[(a) under ¹³[section 209A or section 212] under-estimated the advance tax payable by him and thereby reduced the amount payable in either of the first two instalments ; or]
- (b) under section 213 wrongly deferred the payment of advance tax on a part of his income ;

he may direct that the assessee shall pay simple interest at ¹⁴[fifteen] per cent per annum—

- (i) in the case referred to in clause (a), for the period during which the payment was deficient, on the difference between the amount paid in each such instalment and the amount which should have been paid, having regard to the aggregate advance tax actually paid during the year ; and
- (ii) in the case referred to in clause (b), for the period during which the payment of advance tax was so deferred.

Explanation.—For the purposes of this section, any instalment due before the expiry of six months from the commencement of the previous year in respect of which it is to be paid shall be deemed to have become due fifteen days after the expiry of the said six months.

Interest payable by assessee when no estimate made.

¹⁵**217.** ¹⁶[(1) Where, on making the regular assessment, ¹⁷[the ¹⁸[Assessing] Officer finds—

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- 9. See rule 119A.
 - 10. See also Letter [F.No. 400/58/78-ITCC], dated 29-2-1980. For details, see Taxmann's Master Guide to Income-tax Act.
 - 11. Substituted for "Income-tax" by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988.
 - 12. Substituted by the Finance Act, 1969, w.e.f. 1-4-1970.
 - 13. Substituted for "sub-section (1) or sub-section (2) or sub-section (3) or sub-section (3A) of section 212" by the Finance Act, 1978, w.e.f. 1-6-1978.
 - 14. Substituted for "twelve" by the Taxation Laws (Amendment) Act, 1984, w.e.f. 1-10-1984 ; section 84 of the Amendment Act has clarified that the increase in the rate of interest will apply in respect of any period falling after 30-9-1984 and also in those cases where the interest became chargeable or payable from an earlier date. Earlier, "twelve" was substituted for "nine" by the Finance Act, 1972, w.e.f. 1-4-1972, "nine" was substituted for "six" by the Taxation Laws (Amendment) Act, 1967, w.e.f. 1-10-1967 and "six" was substituted for "four" by the Finance Act, 1965, w.e.f. 1-4-1965.
 - 15. See rules 40 and 119A.
 - 16. Substituted by the Finance Act, 1969, w.e.f. 1-4-1970.
 - 17. Substituted for "the Income-tax Officer finds that any such person as is referred to in sub-section (3) of section 212 has not sent the estimate referred to therein" by the Finance Act, 1978, w.e.f. 1-6-1978.
 - 18. Substituted for "Income-tax" by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988.

- (a) that any such person as is referred to in clause (a) of sub-section (1) of section 209A has not sent the statement referred to in that clause or the estimate in lieu of such statement referred to in sub-section (2) of that section ; or
- (b) that any such person as is referred to in clause (b) of sub-section (1) of section 209A has not sent the estimate referred to in that clause.]

simple interest at the rate of ¹⁹[fifteen] per cent per annum from the 1st day of April next following the financial year in which the advance tax was payable in accordance with the said ²⁰[sub-section (1) or sub-section (2)] up to the date of the regular assessment shall be payable by the assessee upon the amount equal to the assessed tax as defined in sub-section (5) of section 215.]

²¹[(1A) Where, on making the regular assessment, the ²²[Assessing] Officer finds that ²³[any person who is required to send an estimate under sub-section (4) of section 209A or] any such person as is referred to in sub-section (3A) of section 212 has not sent the estimate referred to therein, simple interest at the rate of ²⁴[fifteen] per cent per annum from the 1st day of April next following the financial year in which the advance tax was payable in accordance with the said ²⁵[sub-section (4) or, as the case may be, sub-section (3A)] up to the date of the regular assessment shall be payable by the assessee upon the amount by which the advance tax paid by him falls short of the assessed tax as defined in sub-section (5) of section 215.]

(2) The provisions of sub-sections (2), (3) and (4) of section 215 shall apply to interest payable under this section as they apply to interest payable under that section.

19. Substituted for "twelve" by the Taxation Laws (Amendment) Act, 1984, w.e.f. 1-10-1984 ; section 84 of the Amendment Act has clarified that the increase in the rate of interest will apply in respect of any period falling after 30-9-1984 and also in those cases where the interest became chargeable or payable from an earlier date. Earlier, "twelve" was substituted for "nine" by the Finance Act, 1972, w.e.f. 1-4-1972.

20. Substituted for "sub-section" by the Finance Act, 1978, w.e.f. 1-6-1978.

21. Inserted by the Finance Act, 1969, w.e.f. 1-4-1970.

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

23. Inserted by the Finance Act, 1978, w.e.f. 1-6-1978.

24. Substituted for "twelve" by the Taxation Laws (Amendment) Act, 1984, w.e.f. 1-10-1984 ; section 84 of the Amendment Act has clarified that the increase in the rate of interest will apply in respect of any period falling after 30-9-1984 and also in those cases where the interest became chargeable or payable from an earlier date. Earlier, "twelve" was substituted for "nine" by the Finance Act, 1972, w.e.f. 1-4-1972.

25. Substituted for "sub-section" by the Finance Act, 1978, w.e.f. 1-6-1978.

When assessee deemed to be in default.

218. ²⁶[If any assessee does not pay on the date specified in sub-section (1) of section 211, any instalment of the advance tax that he is required to pay by an order of the Assessing Officer under sub-section (3) or sub-section (4) of section 210 and does not, on or before the date on which any such instalment as is not paid becomes due, send to the Assessing Officer an intimation under sub-section (5) of section 210 or does not pay on the basis of his estimate of his current income the advance tax payable by him under sub-section (6) of section 210, he shall be deemed to be an assessee in default in respect of such instalment or instalments.]

Credit for advance tax.

219. Any sum, other than a penalty or interest, paid by or recovered from an assessee as advance tax in pursuance of this Chapter shall be treated as a payment of tax in respect of the income of the period which would be the previous year for an assessment for the assessment year next following the financial year in which it was payable, and credit therefor shall be given to the assessee in the regular assessment.

²⁷[***]

26. Substituted for the following sub-sections (1) to (3) of section 218, as substituted by the Finance Act, 1978, w.e.f. 1-6-1978 and later on amended by the Finance Act, 1979, w.e.f. 1-4-1979, by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988:

“(1) If any assessee has sent,—

(a) under sub-section (1) of section 209A, a statement, or

(b) under section 209A or section 212, an estimate or a revised estimate,

of the advance tax payable by him, but does not pay any instalment in accordance therewith on the date or dates specified in section 211, he shall be deemed to be an assessee in default in respect of such instalment or instalments.

(2) If any assessee does not pay on the specified date any instalment of advance tax that he is required to pay under section 210 and does not, on or before the date on which any such instalment as is not paid becomes due, send under sub-section (1) or sub-section (2) of section 212 an estimate or a revised estimate of the advance tax payable by him, he shall be deemed to be an assessee in default in respect of such instalment or instalments.

(3) Notwithstanding anything contained in sub-section (1) or sub-section (2), an assessee shall not be deemed to be in default in respect of any amount of which the payment is deferred under section 213 until after the date communicated by him to the Income-tax Officer under that section.”

27. Proviso omitted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989. Original proviso, as inserted by the Finance Act, 1968, w.e.f. 1-4-1968, stood as under:

“**Provided** that where, before the completion of the regular assessment, a provisional assessment is made under section 141A, the credit shall be given also in such provisional assessment.”

*D.—Collection and recovery***When tax payable and when assessee deemed in default.**

²⁸**220.** (1) Any amount, otherwise than by way of advance tax, specified as payable in a notice of demand under section 156 shall be paid within ²⁹[thirty] days of the service of the notice at the place and to the person mentioned in the notice :

Provided that, where the ³⁰[Assessing] Officer has any reason to believe that it will be detrimental to revenue if the full period of ³¹[thirty] days aforesaid is allowed, he may, with the previous approval of the ³²[Joint Commissioner], direct that the sum specified in the notice of demand shall be paid within such period being a period less than the period of ³¹[thirty] days aforesaid, as may be specified by him in the notice of demand.

³³(2) If the amount specified in any notice of demand under section 156 is not paid within the period limited under sub-section (1), the assessee shall be liable to pay simple interest at ³⁴[one and one-half per cent for every month or part of a month comprised in the period commencing from the day immediately following the end of the period mentioned in sub-section (1) and ending with the day on which the amount is paid :]

³⁵[**Provided** that, where as a result of an order under section 154, or section 155, or section 250, or section 254, or section 260, or section 262, or section 264 ³⁶[or an order of the Settlement Commission under sub-section (4) of section 245D], the amount on which interest was payable under this section had been reduced, the interest shall be reduced accordingly and the excess interest paid, if any, shall be refunded :]

³⁷[**Provided further** that in respect of any period commencing on or before the 31st day of March, 1989 and ending after that date, such interest shall, in respect of so much of such period as falls after that date, be calculated at the rate of one and one-half per cent, for every month or part of a month.]

28. See also Circular No. 334, dated 3-4-1982, Instruction No. 96, dated 21-8-1969 and Circular No. 530, dated 6-3-1989 read with Circular No. 589, dated 16-1-1991. For details, see Taxmann's Master Guide to Income-tax Act.

29. Substituted for "thirty-five" by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989.

30. Substituted for "Income-tax", *ibid.*, w.e.f. 1-4-1988.

31. Substituted for "thirty-five", *ibid.*, w.e.f. 1-4-1989.

32. Substituted for the "Deputy Commissioner" by the Finance (No. 2) Act, 1998, w.e.f. 1-10-1998. Earlier "Deputy Commissioner" was substituted for "Inspecting Assistant Commissioner" by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988.

33. See rule 119A.

34. Substituted for "fifteen per cent per annum from the day commencing after the end of the period mentioned in sub-section (1)" by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989.

35. Inserted by the Finance Act, 1963, with retrospective effect from 1-4-1962.

36. Inserted by the Taxation Laws (Amendment) Act, 1987, w.e.f. 1-4-1989.

37. Inserted, *ibid.*

³⁸[(2A) Notwithstanding anything contained in sub-section (2), ³⁹[the ⁴⁰[Chief Commissioner or Commissioner] may] reduce or waive the amount of interest ⁴¹[paid or] payable by an assessee under the said sub-section if ⁴²[he is satisfied] that—

(i) payment of such amount ⁴³[has caused or] would cause genuine hardship to the assessee ;

(ii) default in the payment of the amount on which interest ⁴³[has been paid or] was payable under the said sub-section was due to circumstances beyond the control of the assessee ; and

(iii) the assessee has co-operated in any inquiry relating to the assessment or any proceeding for the recovery of any amount due from him.]

(3) Without prejudice to the provisions contained in sub-section (2), on an application made by the assessee before the expiry of the due date under sub-section (1), the ⁴⁴[Assessing] Officer may extend the time for payment or allow payment by instalments, subject to such conditions as he may think fit to impose in the circumstances of the case.

(4) If the amount is not paid within the time limited under sub-section (1) or extended under sub-section (3), as the case may be, at the place and to the person mentioned in the said notice the assessee shall be deemed to be in default.

(5) If, in a case where payment by instalments is allowed under sub-section (3), the assessee commits defaults in paying any one of the instalments within the time fixed under that sub-section, the assessee shall be deemed to be in default as to the whole of the amount then outstanding, and the other instalment or instalments shall be deemed to have been due on the same date as the instalment actually in default.

(6) Where an assessee has presented an appeal under section 246 the ⁴⁴[Assessing] Officer may, in his discretion and subject to such conditions as he may think fit to impose in the circumstances of the case, treat the assessee as not being in default in respect of the amount in dispute in the appeal, even though the time for payment has expired, as long as such appeal remains undisposed of.

38. Inserted by the Taxation Laws (Amendment) Act, 1984, w.e.f. 1-10-1984.

39. Substituted for “the Board may” by the Taxation Laws (Amendment & Miscellaneous Provisions) Act, 1986, w.e.f. 1-4-1987.

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

41. Inserted by the Taxation Laws (Amendment & Miscellaneous Provisions) Act, 1986, with retrospective effect from 1-10-1984.

42. Substituted for “, on the recommendation made by the Commissioner in this behalf, it is satisfied”, *ibid.*, w.e.f. 1-4-1987.

43. Inserted by the Taxation Laws (Amendment & Miscellaneous Provisions) Act, 1986, with retrospective effect from 1-10-1984.

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

(7) Where an assessee has been assessed in respect of income arising outside India in a country the laws of which prohibit or restrict the remittance of money to India, the ⁴⁵[Assessing] Officer shall not treat the assessee as in default in respect of that part of the tax which is due in respect of that amount of his income which, by reason of such prohibition or restriction, cannot be brought into India, and shall continue to treat the assessee as not in default in respect of such part of the tax until the prohibition or restriction is removed.

Explanation.—For the purposes of this section, income shall be deemed to have been brought into India if it has been utilised or could have been utilised for the purposes of any expenditure actually incurred by the assessee outside India or if the income, whether capitalised or not, has been brought into India in any form.

Penalty payable when tax in default.

⁴⁶**221.** ⁴⁷[(1) When an assessee is in default or is deemed to be in default in making a payment of tax, he shall, in addition to the amount of the arrears and the amount of interest payable under sub-section (2) of section 220, be liable, by way of penalty, to pay such amount as the ⁴⁸[Assessing] Officer may direct, and in the case of a continuing default, such further amount or amounts as the ⁴⁸[Assessing] Officer may, from time to time, direct, so, however, that the total amount of penalty does not exceed the amount of tax in arrears :

Provided that before levying any such penalty, the assessee shall be given a reasonable opportunity of being heard :

⁴⁹**Provided further** that where the assessee proves to the satisfaction of the ⁴⁸[Assessing] Officer that the default was for good and sufficient reasons, no penalty shall be levied under this section.]

⁵⁰*Explanation.*—For the removal of doubt, it is hereby declared that an assessee shall not cease to be liable to any penalty under this sub-section merely by reason of the fact that before the levy of such penalty he has paid the tax.]

(2) Where as a result of any final order the amount of tax, with respect to the default in the payment of which the penalty was levied, has been wholly reduced, the penalty levied shall be cancelled and the amount of penalty paid shall be refunded.

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

46. See also Letter [F.No. 16/87/67-IT(B)], dated 10-7-1967, Circular No. 685, dated 17-6-1994, Circular No. 686, dated 12-8-1994 and Circular No. 696, dated 28-2-1995. For details, see Taxmann’s Master Guide to Income-tax Act.

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

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

49. Substituted by the Taxation Laws (Amendment & Miscellaneous Provisions) Act, 1986, w.e.f. 10-9-1986. Prior to its substitution, the second proviso stood as under :

“**Provided further** that where the Income-tax Officer is satisfied that the default was for good and sufficient reasons, no penalty shall be levied under this section.”

50. Inserted by the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-10-1975.

Certificate to Tax Recovery Officer.

222. ⁵¹[(1) When an assessee is in default or is deemed to be in default in making a payment of tax, the Tax Recovery Officer may draw up under his signature a statement in the prescribed form⁵² specifying the amount of arrears due from the assessee (such statement being hereafter in this Chapter and in the Second Schedule referred to as “certificate”) and shall proceed to recover from such assessee the amount specified in the certificate by one or more of the modes mentioned below, in accordance with the rules laid down in the Second Schedule—]

- (a) attachment and sale of the assessee’s movable property ;
- (b) attachment and sale of the assessee’s immovable property ;
- (c) arrest of the assessee and his detention in prison ;
- (d) appointing a receiver for the management of the assessee’s movable and immovable properties.

⁵³[*Explanation.*—For the purposes of this sub-section, the assessee’s movable or immovable property shall include any property which has been transferred, directly or indirectly on or after the 1st day of June, 1973, by the assessee to his spouse or minor child or son’s wife or son’s minor child, otherwise than for adequate consideration, and which is held by, or stands in the name of, any of the persons aforesaid; and so far as the movable or immovable property so transferred to his minor child or his son’s minor child is concerned, it shall, even after the date of attainment of majority by such minor child or son’s minor child, as the case may be, continue to be included in the assessee’s movable or immovable property for recovering any arrears due from the assessee in respect of any period prior to such date.]

⁵⁴[(2) The Tax Recovery Officer may take action under sub-section (1), notwithstanding that proceedings for recovery of the arrears by any other mode have been taken.]

51. Substituted for the following portion in sub-section (1), as amended by the Direct Tax Laws (Amendment) Act, 1989, w.r.e.f. 1-4-1988, by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989:

“When an assessee is in default or is deemed to be in default in making a payment of tax, the Assessing Officer may forward to the Tax Recovery Officer a certificate under his signature specifying the amount of arrears due from the assessee, and the Tax Recovery Officer on receipt of such certificate, shall proceed to recover from such assessee the amount specified therein by one or more of the modes mentioned below, in accordance with the rules laid down in the Second Schedule—”

52. See rule 117B and Form No. 57 for form of statement drawn by TRO.

53. Inserted by the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-10-1975.

54. Substituted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989. Prior to its substitution sub-section (2) as amended by the Direct Tax Laws (Amendment) Act, 1989, with retrospective effect from 1-4-1988, stood as under:

“(2) The Assessing Officer may issue a certificate under sub-section (1), notwithstanding that proceedings for recovery of the arrears by any other mode have been taken.”

⁵⁵[**Tax Recovery Officer by whom recovery is to be effected.**]

223. (1) The Tax Recovery Officer competent to take action under section 222 shall be—

- (a) the Tax Recovery Officer within whose jurisdiction the assessee carries on his business or profession or within whose jurisdiction the principal place of his business or profession is situate, or
- (b) the Tax Recovery Officer within whose jurisdiction the assessee resides or any movable or immovable property of the assessee is situate,

the jurisdiction for this purpose being the jurisdiction assigned to the Tax Recovery Officer under the orders or directions issued by the Board, or by the Chief Commissioner or Commissioner who is authorised in this behalf by the Board in pursuance of section 120.

(2) Where an assessee has property within the jurisdiction of more than one Tax Recovery Officer and the Tax Recovery Officer by whom the certificate is drawn up—

- (a) is not able to recover the entire amount by sale of the property, movable or immovable, within his jurisdiction, or
- (b) is of the opinion that, for the purpose of expediting or securing the recovery of the whole or any part of the amount under this Chapter, it is necessary so to do,

55. Substituted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989. Prior to its substitution, section 223, as amended by the Direct Tax Laws (Amendment) Act, 1989, with retrospective effect from 1-4-1988 and the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-10-1975, stood as under:

“Tax Recovery Officer to whom certificate is to be issued.—(1) The Assessing Officer may forward that certificate referred to in section 222 to—

- (a) the Tax Recovery Officer within whose jurisdiction the assessee carries on his business or profession or within whose jurisdiction the principal place of his business or profession is situate; or
- (b) the Tax Recovery Officer within whose jurisdiction the assessee resides or any movable or immovable property of the assessee is situate.

(2) Where an assessee has property within the jurisdiction of more than one Tax Recovery Officer and the Tax Recovery Officer to whom a certificate is sent by an Assessing Officer—

- (a) is not able to recover the entire amount by the sale of the property, movable or immovable, within his jurisdiction, or
- (b) is of the opinion that, for the purpose of expediting or securing the recovery of the whole or any part of the amount under this Chapter, it is necessary so to do,

he may send the certificate or, where only a part of the amount is to be recovered, a copy of the certificate certified in the prescribed manner and specifying the amount to be recovered to a Tax Recovery Officer within whose jurisdiction the assessee resides or has property, and thereupon that Tax Recovery Officer shall also proceed to recover the amount under this Chapter as if the certificate or the copy thereof had been the certificate sent to him by the Assessing Officer.”

he may send the certificate or, where only a part of the amount is to be recovered, a copy of the certificate certified in the prescribed manner⁵⁶ and specifying the amount to be recovered to a Tax Recovery Officer within whose jurisdiction the assessee resides or has property and, thereupon, that Tax Recovery Officer shall also proceed to recover the amount under this Chapter as if the certificate or copy thereof had been drawn up by him.]

⁵⁷[**Validity of certificate and cancellation or amendment thereof.**

224. It shall not be open to the assessee to dispute the correctness of any certificate drawn up by the Tax Recovery Officer on any ground whatsoever, but it shall be lawful for the Tax Recovery Officer to cancel the certificate if, for any reason, he thinks it necessary so to do, or to correct any clerical or arithmetical mistake therein.]

⁵⁸[**Stay of proceedings in pursuance of certificate and amendment or cancellation thereof.**

225. (1) It shall be lawful for the Tax Recovery Officer to grant time for the payment of any tax and when he does so, he shall stay the proceedings for the recovery of such tax until the expiry of the time so granted.

56. See rule 117B and Form No. 57.

57. Substituted for the following section 224, as amended by the Direct Tax Laws (Amendment) Act, 1989, with retrospective effect from 1-4-1988, by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989:

“Validity of certificate, and amendment thereof.—(1) When the Assessing Officer sends a certificate to a Tax Recovery Officer under section 222, it shall not be open to the assessee to dispute before the Tax Recovery Officer the correctness of the assessment, and no objection to the certificate on any ground shall be entertained by the Tax Recovery Officer.

(2) Notwithstanding the issue of a certificate to a Tax Recovery Officer, the Assessing Officer shall have power to withdraw or correct any clerical or arithmetical mistake in the certificate by sending an intimation to the Tax Recovery Officer.

(3) The Assessing Officer shall intimate to the Tax Recovery Officer any orders withdrawing or cancelling a certificate or any correction made by him under sub-section (2) of this section or any amendment made under sub-section (4) of section 225.”

58. Substituted for the following section 225, as amended by the Direct Tax Laws (Amendment) Act, 1989, with retrospective effect from 1-4-1988, by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989:

“Stay of proceedings under certificate and amendment or withdrawal thereof.—(1) Notwithstanding that a certificate has been issued to the Tax Recovery Officer for the recovery of any tax, the Assessing Officer may grant time for the payment of the tax, and thereupon the Tax Recovery Officer shall stay the proceedings until the expiry of the time so granted.

(2) Where a certificate for the recovery of tax has been issued, the Assessing Officer shall keep the Tax Recovery Officer informed of any tax paid or time granted for payment, subsequent to the issue of such certificate.

(3) Where the order giving rise to a demand of tax for which a certificate for recovery has been issued has been modified in appeal or other proceeding under this Act, and, as a consequence thereof, the demand is reduced but the order is the subject-matter of further proceeding under this Act, the Assessing Officer shall stay the recovery of such part of the

(Contd. on p. 1.674)

(2) Where the order giving rise to a demand of tax for which a certificate has been drawn up is modified in appeal or other proceeding under this Act, and, as a consequence thereof, the demand is reduced but the order is the subject-matter of further proceeding under this Act, the Tax Recovery Officer shall stay the recovery of such part of the amount specified in the certificate as pertains to the said reduction for the period for which the appeal or other proceeding remains pending.

(3) Where a certificate has been drawn up and subsequently the amount of the outstanding demand is reduced as a result of an appeal or other proceeding under this Act, the Tax Recovery Officer shall, when the order which was the subject-matter of such appeal or other proceeding has become final and conclusive, amend the certificate, or cancel it, as the case may be.]

Other modes of recovery.

226. ⁵⁹[(1) Where no certificate has been drawn up under section 222, the Assessing Officer may recover the tax by any one or more of the modes provided in this section.

(1A) Where a certificate has been drawn up under section 222, the Tax Recovery Officer may, without prejudice to the modes of recovery specified in that section, recover the tax by any one or more of the modes provided in this section.]

(2) If any assessee is in receipt of any income chargeable under the head "Salaries", the ⁶⁰[Assessing] Officer ⁶¹[or Tax Recovery Officer] may require any person paying the same to deduct from any payment subsequent to the date of such requisition any arrears of tax due from such assessee, and such person shall comply with any such requisition and shall pay the sum so deducted to the credit of the Central Government or as the Board directs :

Provided that any part of the salary exempt from attachment in execution of a decree of a civil court under section 60 of the Code of Civil Procedure, 1908 (5 of 1908), shall be exempt from any requisition made under this sub-section.

(Contd. from p. 1.673)

amount of the certificate as pertains to the said reduction for the period for which the appeal or other proceeding remains pending.

(4) Where a certificate for the recovery of tax has been issued and subsequently the amount of the outstanding demand is reduced as a result of an appeal or other proceeding under this Act, the Assessing Officer shall, when the order which was the subject-matter of such appeal or other proceeding has become final and conclusive, amend the certificate or withdraw it, as the case may be."

59. Substituted for the following sub-section (1), as amended by the Direct Tax Laws (Amendment) Act, 1989, with retrospective effect from 1-4-1988, by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989 :

"(1) Notwithstanding the issue of a certificate to the Tax Recovery Officer under section 222, the Assessing Officer may recover the tax by any one or more of the modes provided in this section."

60. Substituted for "Income-tax" by the Direct Tax Laws (Amendment) Act, 1989, with retrospective effect from 1-4-1988.

61. Inserted, *ibid.*, w.e.f. 1-4-1989.

(3) (i) The ⁶²[Assessing] Officer ⁶³[or Tax Recovery Officer] may, at any time or from time to time, by notice in writing require any person from whom money is due or may become due to the assessee or any person who holds or may subsequently hold money for or on account of the assessee to pay to the ⁶²[Assessing] Officer ⁶³[or Tax Recovery Officer] either forthwith upon the money becoming due or being held or at or within the time specified in the notice (not being before the money becomes due or is held) so much of the money as is sufficient to pay the amount due by the assessee in respect of arrears or the whole of the money when it is equal to or less than that amount.

(ii) A notice under this sub-section may be issued to any person who holds or may subsequently hold any money for or on account of the assessee jointly with any other person and for the purposes of this sub-section, the shares of the joint holders in such account shall be presumed, until the contrary is proved, to be equal.

(iii) A copy of the notice shall be forwarded to the assessee at his last address known to the ⁶²[Assessing] Officer ⁶³[or Tax Recovery Officer], and in the case of a joint account to all the joint holders at their last addresses known to the ⁶²[Assessing] Officer ⁶³[or Tax Recovery Officer].

(iv) Save as otherwise provided in this sub-section, every person to whom a notice is issued under this sub-section shall be bound to comply with such notice, and, in particular, where any such notice is issued to a post office, banking company or an insurer, it shall not be necessary for any pass book, deposit receipt, policy or any other document to be produced for the purpose of any entry, endorsement or the like being made before payment is made, notwithstanding any rule, practice or requirement to the contrary.

(v) Any claim respecting any property in relation to which a notice under this sub-section has been issued arising after the date of the notice shall be void as against any demand contained in the notice.

(vi) Where a person to whom a notice under this sub-section is sent objects to it by a statement on oath that the sum demanded or any part thereof is not due to the assessee or that he does not hold any money for or on account of the assessee, then nothing contained in this sub-section shall be deemed to require such person to pay any such sum or part thereof, as the case may be, but if it is discovered that such statement was false in any material particular, such person shall be personally liable to the ⁶²[Assessing] Officer ⁶³[or Tax Recovery Officer] to the extent of his own liability to the assessee on the date of the notice, or to the extent of the assessee's liability for any sum due under this Act, whichever is less.

(vii) The ⁶²[Assessing] Officer ⁶³[or Tax Recovery Officer] may, at any time or from time to time, amend or revoke any notice issued under this sub-section or extend the time for making any payment in pursuance of such notice.

(viii) The ⁶²[Assessing] Officer ⁶³[or Tax Recovery Officer] shall grant a receipt for any amount paid in compliance with a notice issued under this sub-section, and the person so paying shall be fully discharged from his liability to the assessee to the extent of the amount so paid.

62. Substituted for "Income-tax" by the Direct Tax Laws (Amendment) Act, 1989, with retrospective effect from 1-4-1988.

63. Inserted, *ibid.*, w.e.f. 1-4-1989.

(ix) Any person discharging any liability to the assessee after receipt of a notice under this sub-section shall be personally liable to the ⁶⁴[Assessing] Officer ⁶⁵[or Tax Recovery Officer] to the extent of his own liability to the assessee so discharged or to the extent of the assessee's liability for any sum due under this Act, whichever is less.

(x) If the person to whom a notice under this sub-section is sent fails to make payment in pursuance thereof to the ⁶⁴[Assessing] Officer ⁶⁵[or Tax Recovery Officer], he shall be deemed to be an assessee in default in respect of the amount specified in the notice and further proceedings may be taken against him for the realisation of the amount as if it were an arrear of tax due from him, in the manner provided in sections 222 to 225 and the notice shall have the same effect as an attachment of a debt by the Tax Recovery Officer in exercise of his powers under section 222.

(4) The ⁶⁴[Assessing] Officer ⁶⁵[or Tax Recovery Officer] may apply to the court in whose custody there is money belonging to the assessee for payment to him of the entire amount of such money, or, if it is more than the tax due, an amount sufficient to discharge the tax.

⁶⁶[(5) The ⁶⁴[Assessing] Officer ⁶⁵[or Tax Recovery Officer] may, if so authorised by the ⁶⁷[Chief Commissioner or Commissioner] by general or special order, recover any arrears of tax due from an assessee by distraint and sale of his movable property in the manner laid down in the Third Schedule.]

Recovery through State Government.

227. If the recovery of tax in any area has been entrusted to a State Government under clause (1) of article 258 of the Constitution, the State Government may direct, with respect to that area or any part thereof; that tax shall be recovered therein with, and as an addition to, any municipal tax or local rate, by the same person and in the same manner as the municipal tax or local rate is recovered.

Recovery of Indian tax in Pakistan and Pakistan tax in India.

⁶⁸**228.** [Omitted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989.]

64. Substituted for "Income-tax" by the Direct Tax Laws (Amendment) Act, 1989, with retrospective effect from 1-4-1988.

65. Inserted, *ibid.*, w.e.f. 1-4-1989.

66. Substituted by the Finance Act, 1965, w.e.f. 1-4-1965.

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

68. Prior to its omission, section 228, as amended by the Direct Tax Laws (Amendment) Act, 1989, with retrospective effect from 1-4-1988, stood as under:

'(1) The Assessing Officer may forward a certificate under section 222 to a Collector in Pakistan through the Central Board of Revenue of Pakistan, if the assessee has property in the district of that Collector, and for the purposes of that section, the expression "Tax Recovery Officer" shall include a Collector in Pakistan.

(2) Where a Collector in India receives through the Board a certificate under the signature of an Assessing Officer in Pakistan, the Collector shall proceed to recover the amount specified therein in the manner in which he would proceed to recover the amount specified in a certificate received from an Assessing Officer in India, and shall remit any sum so recovered by him to the Assessing Officer in Pakistan, after deducting his expenses in connection with the recovery proceedings.

(Contd. on p. 1.677)

⁶⁹[**Recovery of tax in pursuance of agreements with foreign countries.**

228A. (1) Where an agreement is entered into by the Central Government with the Government of any country outside India for recovery of income-tax under this Act and the corresponding law in force in that country and the Government of that country or any authority under that Government which is specified in this behalf in such agreement sends to the Board a certificate for the recovery of any tax due under such corresponding law from a person having any property in India, the Board may forward such certificate to any Tax Recovery Officer within whose jurisdiction such property is situated and thereupon such Tax Recovery Officer shall—

- (a) proceed to recover the amount specified in the certificate in the manner in which he would proceed to recover the amount ⁷⁰[specified in a certificate drawn up by him under section 222]; and
- (b) remit any sum so recovered by him to the Board after deducting his expenses in connection with the recovery proceedings.

⁷¹[(2) Where an assessee is in default or is deemed to be in default in making a payment of tax, the Tax Recovery Officer may, if the assessee has property in a country outside India (being a country with which the Central Government has entered into an agreement for the recovery of income-tax under this Act and the corresponding law in force in that country), forward to the Board a certificate drawn up by him under section 222 and the Board may take such action thereon as it may deem appropriate having regard to the terms of the agreement with such country.]

Recovery of penalties, fine, interest and other sums.

229. Any sum imposed by way of interest, fine, penalty, or any other sum payable under the provisions of this Act, shall be recoverable in the manner provided in this Chapter for the recovery of arrears of tax.

(Contd. from p. 1.676)

(3) The provisions of this section shall remain in force only so long as there are in force similar provisions in the law of Pakistan for the recovery of tax by a Collector in Pakistan on receipt of a certificate from an Assessing Officer in India.’

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

70. Substituted for “specified in a certificate received from an Assessing Officer” by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989. Earlier it was amended by the Direct Tax Laws (Amendment) Act, 1989, with retrospective effect from 1-4-1988.

71. Substituted for the following, as amended by the Direct Tax Laws (Amendment) Act, 1989, with retrospective effect from 1-4-1988, by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989:

“(2) Notwithstanding the issue of a certificate under section 222 to the Tax Recovery Officer, where an assessee is in default or is deemed to be in default in making a payment of tax, the Assessing Officer may, if the assessee has property in a country outside India (being a country with which the Central Government has entered into an agreement for the recovery of income-tax under this Act and the corresponding law in force in that country), forward to the Board a certificate specifying the amount of arrears due from the assessee and the Board may take such action thereon as it may deem appropriate having regard to the terms of the agreement with such country.”

Tax clearance certificate.

⁷²**230.** (1) Subject to such exceptions as the Central Government may, by notification⁷³ in the Official Gazette, specify in this behalf, ⁷⁴[no person—

- (a) who is not domiciled in India; or
- (b) who is domiciled in India at the time of his departure, but—
 - (i) intends to leave India as an emigrant; or
 - (ii) intends to proceed to another country on a work permit with the object of taking up any employment or other occupation in that country; or
 - (iii) in respect of whom circumstances exist which, in the opinion of an income-tax authority, render it necessary for him to obtain a certificate under this section,

shall leave the territory of India] by land, sea or air unless he first obtains from such authority⁷⁵ as may be appointed by the Central Government in this behalf (hereinafter in this section referred to as the “competent authority”) a certificate stating that he has no liabilities under this Act, the Excess Profits Tax Act, 1940 (15 of 1940), the Business Profits Tax Act, 1947 (21 of 1947), the Indian Income-tax Act, 1922 (11 of 1922), the Wealth-tax Act, 1957 (27 of 1957), the Expenditure-tax Act, 1957 (29 of 1957), or the Gift-tax Act, 1958 (18 of 1958), or that satisfactory arrangements have been made for the payment of all or any of such taxes which are or may become payable by that person:

Provided that in the case of a person not domiciled in India the competent authority may, if it is satisfied that such person intends to return to India, issue an exemption certificate either in respect of a single journey or in respect of all journeys to be undertaken by that person within such period as may be specified in the certificate.

(2) If the owner or charterer of any ship or aircraft carrying persons from any place in the territory of India to any place outside India allows any person to whom sub-section (1) applies to travel by such ship or aircraft without first satisfying himself that such person is in possession of a certificate as required by that sub-section, he shall be personally liable to pay the whole or any part of the amount of tax, if any, payable by such person as the ⁷⁶[Assessing] Officer may, having regard to the circumstances of the case, determine.

(3) In respect of any sum payable by the owner or charterer of any ship or aircraft under sub-section (2), the owner or charterer, as the case may be, shall be deemed to be an assessee in default for such sum, and such sum shall be recoverable from him in the manner provided in this Chapter as if it were an arrear of tax.

72. See also Circular No. 31 (LIXVI-10), dated 15-11-1960, Letter [F. No. 458/3/72-FTD], dated 15-5-1973 and Circular No. 546, dated 4-10-1989. For details, see Taxmann’s Master Guide to Income-tax Act.

73. For specified exceptions, see Taxmann’s Master Guide to Income-tax Act.

74. Substituted for “no person who is not domiciled in India, or who, even if domiciled in India at the time of his departure, has, in the opinion of an income-tax authority, no intention of returning to India, shall leave the territory of India” by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989.

75. For notification appointing competent authority, refer Taxmann’s Master Guide to Income-tax Act.

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

⁷⁷(4) The Board may make rules for regulating any matter necessary for, or incidental to, the purpose of carrying out the provisions of this section.

Explanation.—For the purposes of this section, the expressions “owner” and “charterer” include any representative, agent or employee empowered by the owner or charterer to allow persons to travel by the ship or aircraft.

⁷⁸**[Restrictions on registration of transfers of immovable property in certain cases.**

⁷⁹**230A.** (1) Notwithstanding anything contained in any other law for the time being in force, where any document required to be registered under the provisions of clause (a) to clause (e) of sub-section (1) of section 17 of the Indian Registration Act, 1908 (16 of 1908), purports to transfer, assign, limit, or extinguish the right, title or interest of any person to or in any property ⁸⁰[* * *] valued at more than ⁸¹[five lakh] rupees, no registering officer appointed under that Act shall register any such document, unless the ⁸²[Assessing] Officer certifies that—

(a) such person has either paid or made satisfactory provision for payment of all existing liabilities under this Act, the Excess Profits Tax Act, 1940 (15 of 1940), the Business Profits Tax Act, 1947 (21 of 1947), the Indian Income-tax Act, 1922 (11 of 1922), the Wealth-tax Act, 1957 (27 of 1957), the Expenditure-tax Act, 1957 (29 of 1957), ⁸³[the Gift-tax Act, 1958 (18 of 1958), the Super Profits Tax Act, 1963 (14 of 1963), and the Companies (Profits) Surtax Act, 1964 (7 of 1964),] or

(b) the registration of the document will not prejudicially affect the recovery of any existing liability under any of the aforesaid Acts.

⁸⁴(2) The application for the certificate required under sub-section (1) shall be made by the person referred to in that sub-section and shall be in such form and shall contain such particulars as may be prescribed.

⁸⁵[(3) The provisions of sub-section (1) shall not apply in a case where the person referred to in that sub-section is any such institution, association or body, or belongs to any ⁸⁶such class of institutions, associations or bodies, as the Board

77. See rules 42, 43 and 44 and Form Nos. 31, 32, 33 and 34 for form of application for tax clearance certificate, form of authorisation from Assessing Officer [to be accompanied with application where applicant is a person domiciled in India or is a person who has been assessed], form of tax clearance certificate and form of exemption certificate.

78. Inserted by the Direct Taxes (Amendment) Act, 1964, w.e.f. 6-10-1964.

79. See also Circular No. 191, dated 4-3-1976 and Letter [F. No. 358/4/91-IT(B)], dated 10-12-1992. For details, see Taxmann’s Master Guide to Income-tax Act.

80. “(other than agricultural land)” omitted by the Finance (No. 2) Act, 1971, w.e.f. 1-10-1971.

81. Substituted for “two lakhs” by the Finance Act, 1995, w.e.f. 1-7-1995. Earlier words “two lakhs” were substituted for “fifty thousand” by the Finance Act, 1988, w.e.f. 1-4-1988.

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

83. Substituted for “and the Gift-tax Act, 1958 (18 of 1958)” by the Finance (No. 2) Act, 1971, w.e.f. 1-10-1971.

84. See rules 44A and 44B and Form No. 34A for application for tax clearance certificate for registration of document (in duplicate). Application should be accompanied by copy of sale deed, AO has to give his decision within 60 days of receipt of application.

85. Inserted by the Finance (No. 2) Act, 1971, w.e.f. 1-10-1971.

86. For complete list of institutions/associations/bodies, see Taxmann’s Master Guide to Income-tax Act.

may, for reasons to be recorded in writing, notify in this behalf in the Official Gazette.]

Period for commencing recovery proceedings.

⁸⁷231. [Omitted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989.]

Recovery by suit or under other law not affected.

232. The several modes of recovery specified in this Chapter shall not affect in any way—

- (a) any other law for the time being in force relating to the recovery of debts due to Government; or
- (b) the right of the Government to institute a suit for the recovery of the arrears due from the assessee;

and it shall be lawful for the ⁸⁸[Assessing] Officer or the Government, as the case may be, to have recourse to any such law or suit, notwithstanding that the tax due is being recovered from the assessee by any mode specified in this Chapter.

E.—Tax payable under provisional assessment

Recovery of tax payable under provisional assessment.

233. [Omitted by the Taxation Laws (Amendment) Act, 1970, w.e.f. 1-4-1971.]

Tax paid by deduction or advance payment.

⁸⁹234. [Omitted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989.]

87. Prior to its omission, section 231, as amended by the Taxation Laws (Amendment) Act, 1984, w.e.f. 1-10-1984, stood as under :

“Save in accordance with the provisions of section 173 or sub-section (7) of section 220, no proceedings for the recovery of any sum payable under this Act shall be commenced after the expiration of three years from the last day of the financial year in which the demand is made, or, in the case of a person who is deemed to be an assessee in default under any provision of this Act, after the expiration of three years from the last day of the financial year in which the assessee is deemed to be in default.

Explanation 1.—The period of three years referred to above shall be reckoned—

- (i) where an assessee has been treated as not being in default under sub-section (6) of section 220, as long as his appeal is undisposed of, from the last day of the financial year in which the appeal is disposed of;
- (ii) where recovery proceedings in any case have been stayed by any order of a court, from the last day of the financial year in which the order is withdrawn;
- (iii) where the date of payment of tax has been extended by an income-tax authority to another date, from the last day of financial year in which such other date falls;
- (iv) where the sum payable is allowed to be paid by instalments, from the last day of the financial year in which the last of such instalments is due.

Explanation 2.—A proceeding for the recovery of any sum shall be deemed to have commenced within the meaning of this section, if some action is taken to recover the whole or any part of the sum within the period hereinbefore referred to.”

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

89. Prior to its omission, section 234, as amended by the Taxation Laws (Amendment) Act, 1970, w.r.e.f. 1-4-1968/1-4-1971, stood as under :

“Tax paid or deemed to have been paid under the provisions of Chapter XVII-B or Chapter XVII-C in respect of any income provisionally assessed under section 141A shall be deemed to have been paid towards the provisional assessment.”

⁹⁰[*F.—Interest chargeable in certain cases*⁹¹

Interest for defaults in furnishing return of income.

234A. (1) Where the return of income for any assessment year under sub-section (1) or sub-section (4) of section 139, or in response to a notice under sub-section (1) of section 142, is furnished after the due date, or is not furnished, the assessee shall be liable to pay simple interest at the rate of ^{91a}[*one and one-half*] per cent for every month or part of a month comprised in the period commencing on the date immediately following the due date, and,—

- (a) where the return is furnished after the due date, ending on the date of furnishing of the return; or
- (b) where no return has been furnished, ending on the date of completion of the assessment under section 144,

on the amount of ⁹²[the tax on the total income as determined under sub-section (1) of section 143 or on regular assessment as reduced by the advance tax, if any, paid and any tax deducted or collected at source].

Explanation 1.—In this section, “due date” means the date specified in sub-section (1) of section 139 as applicable in the case of the assessee.

⁹³[*Explanation 2.*—In this sub-section, “tax on the total income as determined under sub-section (1) of section 143” shall not include the additional income-tax, if any, payable under section 143.]

Explanation 3.—Where, in relation to an assessment year, an assessment is made for the first time under section 147, the assessment so made shall be regarded as a regular assessment for the purposes of this section.

⁹⁴[*Explanation 4.*—In this sub-section, “tax on the total income as determined under sub-section (1) of section 143 or on regular assessment” shall, for the purposes of computing the interest payable under section 140A, be deemed to be tax on total income as declared in the return.]

(2) The interest payable under sub-section (1) shall be reduced by the interest, if any, paid under section 140A towards the interest chargeable under this section.

(3) Where the return of income for any assessment year, required by a notice under section 148 issued ⁹⁴[after the determination of income under sub-section (1) of section 143 or] after the completion of an assessment under sub-section (3) of section 143 or section 144 or section 147, is furnished after the expiry of the time allowed under such notice, or is not furnished, the assessee shall be liable to pay simple interest at the rate of ^{94a}[*one and one-half*] per cent for every month or part of a month comprised in the period commencing on the day immediately following the expiry of the time allowed as aforesaid, and,—

90. Inserted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989.

91. See also Notification No. F. No. 400/234/95-IT(B), dated 23-5-1996. See also Press Release authorising Chief Commissioners/Director General (Investigation) to waive penal interest in certain cases. For details, see Taxmann’s Master Guide to Income-tax Act.

91a. Substituted for “two” by the Finance Act, 1999, w.e.f. 1-6-1999.

92. Substituted for “the tax on the total income as determined on regular assessment as reduced by the advance tax, if any, paid and any tax deducted at source” by the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1-4-1989.

93. Substituted, *ibid.*

94. Inserted, *ibid.*

94a. Substituted for “two” by the Finance Act, 1999, w.e.f. 1-6-1999.

- (a) where the return is furnished after the expiry of the time aforesaid, ending on the date of furnishing the return; or
- (b) where no return has been furnished, ending on the date of completion of the re-assessment or re-computation under section 147,

on the amount by which the tax on the total income determined on the basis of such re-assessment or re-computation exceeds the tax on the total income determined ⁹⁵[under sub-section (1) of section 143 or] on the basis of the earlier assessment aforesaid.

Explanation.—⁹⁶[* * *].

(4) Where as a result of an order under section 154 or section 155 or section 250 or section 254 or section 260 or section 262 or section 263 or section 264 or an order of the Settlement Commission under sub-section (4) of section 245D, the amount of tax on which interest was payable under sub-section (1) or sub-section (3) of this section has been increased or reduced, as the case may be, the interest shall be increased or reduced accordingly, and—

- (i) in a case where the interest is increased, the Assessing Officer shall serve on the assessee a notice of demand in the prescribed form specifying the sum payable, and such notice of demand shall be deemed to be a notice under section 156 and the provisions of this Act shall apply accordingly;
- (ii) in a case where the interest is reduced, the excess interest paid, if any, shall be refunded.

(5) The provisions of this section shall apply in respect of assessments for the assessment year commencing on the 1st day of April, 1989 and subsequent assessment years.]

⁹⁷[**Interest for defaults in payment of advance tax.**

234B. (1) Subject to the other provisions of this section, where, in any financial year, an assessee who is liable to pay advance tax under section 208 has failed to pay such tax or, where the advance tax paid by such assessee under the provisions of section 210 is less than ninety per cent of the assessed tax, the assessee shall be liable to pay simple interest at the rate of ^{97a}[*one and one-half*] per cent for every month or part of a month comprised in the period from the 1st day of April next following such financial year ⁹⁸[to the date of determination of total income under sub-section (1) of section 143 ⁹⁹[and where a regular assessment is made, to the date of such regular assessment, on an amount]] equal to the assessed tax or, as the case may be, on the amount by which the advance tax paid as aforesaid falls short of the assessed tax.

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

96. Omitted, *ibid*.

97. Inserted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989.

97a. Substituted for “two” by the Finance Act, 1999, w.e.f. **1-6-1999**.

98. Substituted for “to the date of the regular assessment” by the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1-4-1989.

99. Substituted for “or regular assessment, on an amount” by the Finance Act, 1995, w.r.e.f. 1-4-1989.

¹[*Explanation 1.*—In this section, “assessed tax” means,—

- (a) for the purposes of computing the interest payable under section 140A, the tax on the total income as declared in the return referred to in that section;
- (b) in any other case, the tax on the total income determined under sub-section (1) of section 143 or on regular assessment,

as reduced by the amount of tax deducted or collected at source in accordance with the provisions of Chapter XVII on any income which is subject to such deduction or collection and which is taken into account in computing such total income.]

Explanation 2.—Where, in relation to an assessment year, an assessment is made for the first time under section 147, the assessment so made shall be regarded as a regular assessment for the purposes of this section.

²[*Explanation 3.*—In *Explanation 1* and in sub-section (3) “tax on the total income determined under sub-section (1) of section 143” shall not include the additional income-tax, if any, payable under section 143.]

(2) Where, before the date of ³[determination of total income under sub-section (1) of section 143 or] completion of a regular assessment, tax is paid by the assessee under section 140A or otherwise,—

- (i) interest shall be calculated in accordance with the foregoing provisions of this section up to the date on which the tax is so paid, and reduced by the interest, if any, paid under section 140A towards the interest chargeable under this section;
- (ii) thereafter, interest shall be calculated at the rate aforesaid on the amount by which the tax so paid together with the advance tax paid falls short of the assessed tax.

(3) Where, as a result of an order of re-assessment or re-computation under section 147, the amount on which interest was payable under sub-section (1) is increased, the assessee shall be liable to pay simple interest at the rate of ^{3a}[*one and one-half*] per cent for every month or part of a month comprised in the period commencing on the day following ⁴[the date of determination of total income under sub-section (1) of section 143 ⁵[and where a regular assessment is made as is referred to in sub-section (1) following the date of such regular assessment]] and ending on the date of the re-assessment or re-computation under section 147, on the amount by which the tax on the total income determined on the basis of the re-assessment or re-computation exceeds the tax on the total income determined ⁴[under sub-section (1) of section 143 or] on the basis of the regular assessment aforesaid.

Explanation.—⁶[* * *]

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

2. Substituted, *ibid.*

3. Inserted, *ibid.*

3a. Substituted for “two” by the Finance Act, 1999, w.e.f. **1-6-1999**.

4. Substituted for “the date of the regular assessment” by the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1-4-1989.

5. Substituted for “or regular assessment referred to in sub-section (1)” by the Finance Act, 1995, w.r.e.f. 1-4-1989.

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

(4) Where, as a result of an order under section 154 or section 155 or section 250 or section 254 or section 260 or section 262 or section 263 or section 264 or an order of the Settlement Commission under sub-section (4) of section 245D, the amount on which interest was payable under sub-section (1) or sub-section (3) has been increased or reduced, as the case may be, the interest shall be increased or reduced accordingly, and—

- (i) in a case where the interest is increased, the Assessing Officer shall serve on the assessee a notice of demand in the prescribed form specifying the sum payable and such notice of demand shall be deemed to be a notice under section 156 and the provisions of this Act shall apply accordingly;
- (ii) in a case where the interest is reduced, the excess interest paid, if any, shall be refunded.

(5) The provisions of this section shall apply in respect of assessments for the assessment year commencing on the 1st day of April, 1989 and subsequent assessment years.]

⁷[**Interest for deferment of advance tax.**

234C. (1) ⁸[Where in any financial year,—

- (a) the company which is liable to pay advance tax under section 208 has failed to pay such tax or—
 - (i) the advance tax paid by the company on its current income on or before the 15th day of June is less than fifteen per cent of the tax due on the returned income or the amount of such advance tax paid on or before the 15th day of September is less than forty-five per cent of the tax due on the returned income or the amount of such advance tax paid on or before the 15th day of December is less than seventy-five per cent of the tax due on the returned income, then, the company shall be liable to pay simple interest at the rate of one and one-half per cent per month for a period of three months on the amount of the shortfall from fifteen per cent or forty-five per cent or seventy-five per cent, as the case may be, of the tax due on the returned income;
 - (ii) the advance tax paid by the company on its current income on or

7. Inserted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989.

8. Substituted for the portion beginning with the words “Where in any financial year” and ending with the words “as the case may be, sixty per cent of the tax due on the returned income:” by the Finance Act, 1994, w.e.f. 1-4-1995. Earlier the quoted portion, as amended by the Finance (No. 2) Act, 1991, w.r.e.f. 1-4-1989 and the Finance Act, 1992, w.e.f. 1-6-1992, read as under :

“Where in any financial year, the assessee who is liable to pay advance tax under section 208 has failed to pay such tax or the advance tax paid by the assessee on his current income on or before the 15th day of September is less than thirty per cent of the tax due on the returned income or the amount of such advance tax paid on or before the 15th day of December is less than sixty per cent of the tax due on the returned income, then, the assessee shall be liable to pay simple interest at the rate of one and one-half per cent per month of the shortfall for a period of three months on the amount of the shortfall from thirty per cent or, as the case may be, sixty per cent of the tax due on the returned income.”

before the 15th day of March is less than the tax due on the returned income, then, the company shall be liable to pay simple interest at the rate of one and one-half per cent on the amount of the shortfall from the tax due on the returned income:

Provided that if the advance tax paid by the company on its current income on or before the 15th day of June or the 15th day of September, is not less than twelve per cent or, as the case may be, thirty-six per cent of the tax due on the returned income, then, it shall not be liable to pay any interest on the amount of the shortfall on those dates;

- (b) the assessee, other than a company, who is liable to pay advance tax under section 208 has failed to pay such tax or,—
- (i) the advance tax paid by the assessee on his current income on or before the 15th day of September is less than thirty per cent of the tax due on the returned income or the amount of such advance tax paid on or before the 15th day of December is less than sixty per cent of the tax due on the returned income, then, the assessee shall be liable to pay simple interest at the rate of one and one-half per cent per month for a period of three months on the amount of the shortfall from thirty per cent or, as the case may be, sixty per cent of the tax due on the returned income;
- (ii) the advance tax paid by the assessee on his current income on or before the 15th day of March is less than the tax due on the returned income, then, the assessee shall be liable to pay simple interest at the rate of one and one-half per cent on the amount of the shortfall from the tax due on the returned income :]

⁹**Provided** that nothing contained in this sub-section shall apply to any shortfall in the payment of the tax due on the returned income where such shortfall is on account of under-estimate or failure to estimate—

- (a) the amount of capital gains; or
- (b) income of the nature referred to in sub-clause (ix) of clause (24) of section 2,

and the assessee has paid the whole of the amount of tax payable in respect of income referred to in clause (a) or clause (b), as the case may be, had such income been a part of the total income, as part of the ¹⁰[remaining instalments of advance tax which are due or where no such instalments are due], by the 31st day of March of the financial year:]

¹¹[* * *]

9. Inserted by the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1-4-1989.
10. Substituted for “instalment of advance tax which is immediately due or where no such instalment is so due” by the Finance (No. 2) Act, 1996, w.e.f. 1-4-1997.
11. Second proviso omitted by the Finance (No. 2) Act, 1996, w.e.f. 1-4-1997. Prior to its omission, the second proviso, as inserted by the Taxation Laws (Amendment) Act, 1991, w.e.f. 15-1-1991, read as under :

“Provided further that nothing contained in this sub-section shall apply to any shortfall in the payment of the tax due on the returned income where such shortfall is on account of—

(Contd. on p. 1.686)

Explanation.—In this section, “tax due on the returned income” means the tax chargeable on the total income declared in the return of income furnished by the assessee for the assessment year commencing on the 1st day of April immediately following the financial year in which the advance tax is paid ¹²[or payable], as reduced by ¹³[the amount of tax deductible or collectible at source in accordance with the provisions of Chapter XVII on any income which is subject to such deduction or collection] and which is taken into account in computing such total income.

(2) The provisions of this section shall apply in respect of assessments for the assessment year commencing on the 1st day of April, 1989 and subsequent assessment years.]]

CHAPTER XVIII

RELIEF RESPECTING TAX ON DIVIDENDS IN CERTAIN CASES

Relief to shareholders in respect of agricultural income-tax attributable to dividends.

235. [Omitted by the Finance (No. 2) Act, 1971, w.e.f. 1-4-1972. Prior to its omission, section was amended by the Taxation Laws (Amendment) Act, 1970, w.e.f. 1-4-1971 and with retrospective effect from 1-4-1962, the Finance Act, 1966, w.e.f. 1-4-1966, and the Finance Act, 1965, w.e.f. 1-4-1965.]

(Contd. from p. 1.685)

(a) restricting the amount of deduction under the third proviso to clause (ii) of subsection (1) of section 32;

(b) increase in the rate of surcharge under section 2 of the Finance Act, 1990 (12 of 1990), as amended by the Taxation Laws (Amendment) Act, 1991,

and the assessee has paid the amount of shortfall,—

(i) where it is a domestic company and—

(1) the case falls under clause (a), as part of the instalment of advance tax which is immediately due;

(2) the case falls under clause (b), on or before the 15th day of November, 1990, in respect of the instalment of advance tax due on the 15th day of September, 1990;

(ii) where it is not a domestic company and—

(1) the case falls under clause (a), as part of the instalment of advance tax which is immediately due;

(2) the case falls under clause (b), as part of the instalment of advance tax due on or before the 15th day of March, 1991.”

12. Inserted by the Finance Act, 1992, w.r.e.f. 1-4-1989.

13. Substituted for “the amount of tax deductible at source in accordance with the provisions of Chapter XVII-B on any income which is subject to such deduction” by the Taxation Laws (Amendment) Act, 1991, w.e.f. 15-1-1991.