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CHAPTER III
DIRECT TAXES
Income-tax

3. In section 2 of the Income-tax Act,—

Amendment of
section 2.

20 (a) in clause (1A), after *Explanation 2*, the following *Explanation* shall be inserted with effect from the 1st day of April, 2009, namely:—

"*Explanation 3*.—For the purposes of this clause, any income derived from saplings or seedlings grown in a nursery shall be deemed to be agricultural income;";

(b) for clause (15), the following clause shall be substituted with effect from the 1st day of April, 2009, namely:—

25 '(15) "charitable purpose" includes relief of the poor, education, medical relief, and the advancement of any other object of general public utility:

30 Provided that the advancement of any other object of general public utility shall not be a charitable purpose, if it involves the carrying on of any activity in the nature of trade, commerce or business, or any activity of rendering any service in relation to any trade, commerce or business, for a cess or fee or any other consideration, irrespective of the nature of use or application, or retention, of the income from such activity;'.
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4. In section 10 of the Income-tax Act,—

Amendment of
section 10.

26 of 1997.

(a) after clause (26AA) as omitted by the Finance Act, 1997, the following clause shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1990, namely:—

35 '(26AAA) in case of an individual, being a Sikkimese, any income which accrues or arises to him—

(a) from any source in the State of Sikkim; or

(b) by way of dividend or interest on securities:

40 Provided that nothing contained in this clause shall apply to a Sikkimese woman who, on or after the 1st day of April, 2008, marries an individual who is not a Sikkimese.

Explanation.—For the purposes of this clause, "Sikkimese" shall mean—

(i) an individual, whose name is recorded in the register maintained under the Sikkim Subjects Regulation, 1961 read with the Sikkim Subject Rules, 1961 (hereinafter referred to as the "Register of Sikkim Subjects"), immediately before the 26th day of April, 1975; or

45 (ii) an individual, whose name is included in the Register of Sikkim Subjects by virtue of the Government of India Order No. 26030/36/90-I.C.I., dated the 7th August, 1990 and Order of

even number dated the 8th April, 1991; or

(iii) any other individual, whose name does not appear in the Register of Sikkim Subjects, but it is established beyond doubt that the name of such individual's father or husband or paternal grandfather or brother from the same father has been recorded in that register;';

(b) in clause (29A), after sub-clause (g), the following sub-clause shall be inserted with effect from the 1st day of April, 2009, namely:—

“(h) the Coir Board established under section 4 of the Coir Industry Act, 1953;”;

45 of 1953.

(c) after clause (42), the following clause shall be inserted, namely:—

“(43) any amount received by an individual as a loan, either in lump sum or in instalment, in a transaction of reverse mortgage referred to in clause (xvi) of section 47.”.

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Amendment of section 35.

5. In section 35 of the Income-tax Act, with effect from the 1st day of April, 2009,—

(a) in sub-section (1), after clause (ii), the following clause shall be inserted, namely:—

“(iia) an amount equal to one and one-fourth times of any sum paid to a company to be used by it for scientific research:

Provided that such company—

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(A) is registered in India,

(B) has as its main object the scientific research and development,

(C) is, for the purposes of this clause, for the time being approved by the prescribed authority in the prescribed manner, and

(D) fulfils such other conditions as may be prescribed;”;

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(b) in sub-section (2AB), after clause (5), the following clause shall be inserted, namely:—

“(6) No deduction shall be allowed to a company approved under sub-clause (C) of clause (iia) of sub-section (1) in respect of the expenditure referred to in clause (1) which is incurred after the 31st day of March, 2008.”.

Amendment of section 35D.

6. In section 35D of the Income-tax Act, with effect from the 1st day of April, 2009,—

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(a) for the words “industrial undertaking”, wherever they occur, the word “undertaking” shall be substituted;

(b) for the words “industrial unit”, wherever they occur, the word “unit” shall be substituted.

Amendment of section 36.

7. In section 36 of the Income-tax Act, in sub-section (1), after clause (xiv), the following clauses shall be inserted with effect from the 1st day of April, 2009, namely:—

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(xv) an amount equal to the securities transaction tax paid by the assessee in respect of the taxable securities transactions entered into in the course of his business during the previous year, if the income arising from such taxable securities transactions is included in the income computed under the head “Profits and gains of business or profession.”.

Explanation.—For the purposes of this clause, the expressions “securities transaction tax” and “taxable securities transaction” shall have the meanings respectively assigned to them under Chapter VII of the Finance (No. 2) Act, 2004;

23 of 2004.

(xvi) an amount equal to the commodities transaction tax paid by the assessee in respect of the taxable commodities transactions entered into in the course of his business during the previous year, if the income arising from such taxable commodities transactions is included in the income computed under the head “Profits and gains of business or profession”.

Explanation.—For the purposes of this clause, the expressions “commodities transaction tax” and “taxable commodities transaction” shall have the meanings respectively assigned to them under Chapter VII of the Finance Act, 2008.’.

8. In section 40 of the Income-tax Act, in clause (a), sub-clause (ib) shall be omitted with effect from the 1st day of April, 2009. Amendment of section 40
9. In section 40A of the Income-tax Act, for sub-section (3), the following sub-sections shall be substituted, with effect from the 1st day of April, 2009, namely:— Amendment of section 40A.
- 5 “(3) Where the assessee incurs any expenditure in respect of which a payment or aggregate of payments made to a person in a day, otherwise than by an account payee cheque drawn on a bank or account payee bank draft, exceeds twenty thousand rupees, no deduction shall be allowed in respect of such expenditure.
- 10 (3A) Where an allowance has been made in the assessment for any year in respect of any liability incurred by the assessee for any expenditure and subsequently during any previous year (hereinafter referred to as subsequent year) the assessee makes payment in respect thereof, otherwise than by an account payee cheque drawn on a bank or account payee bank draft, the payment so made shall be deemed to be the profits and gains of business or profession and accordingly chargeable to income-tax as income of the subsequent year if the payment or aggregate of payments made to a person in a day, exceeds twenty thousand rupees:
- 15 Provided that no disallowance shall be made and no payment shall be deemed to be the profits and gains of business or profession under sub-section (3) and this sub-section where a payment or aggregate of payments made to a person in a day, otherwise than by an account payee cheque drawn on a bank or account payee bank draft, exceeds twenty thousand rupees, in such cases and
- 20 under such circumstances as may be prescribed, having regard to the nature and extent of banking facilities available, considerations of business expediency and other relevant factors.”.
10. In section 43 of the Income-tax Act, in clause (6), after *Explanation 5*, the following *Explanation* shall be inserted and shall be deemed to have been inserted, with effect from the 1st day of April, 2003, namely:— Amendment of section 43.
- 25 “*Explanation 6*.—Where an assessee was not required to compute his total income for the purposes of this Act for any previous year or years preceding the previous year relevant to the assessment year under consideration,—
- (a) the actual cost of an asset shall be adjusted by the amount attributable to the revaluation of such asset, if any, in the books of account;
- 30 (b) the total amount of depreciation on such asset, provided in the books of account of the assessee in respect of such previous year or years preceding the previous year relevant to the assessment year under consideration shall be deemed to be the depreciation actually allowed under this Act for the purposes of this clause; and
- 35 (c) the depreciation actually allowed under clause (b) shall be adjusted by the amount of depreciation attributable to such revaluation of the asset.”.
11. In section 47 of the Income-tax Act,— Amendment of section 47.
- (a) after clause (x), the following clause shall be inserted, namely:—
- “(xa) any transfer by way of conversion of bonds referred to in clause (a) of sub-section (1) of section 115AC into shares or debentures of any company;”;
- 40 (b) after clause (xv), the following clause shall be inserted, namely:—
- “(xvi) any transfer of a capital asset in a transaction of reverse mortgage under a scheme made and notified by the Central Government.”.
12. In section 49 of the Income-tax Act, for sub-section (2A), the following sub-section shall be substituted, namely:— Amendment of section 49.
- 45 “(2A) Where the capital asset, being a share or debenture of a company, became the property of the assessee in consideration of a transfer referred to in clause (x) or clause (xa) of section 47, the cost of acquisition of the asset to the assessee shall be deemed to be that part of the cost of debenture, debenture-stock, bond or deposit certificate in relation to which such asset is acquired by the assessee.”.
- 50 13. In section 80C of the Income-tax Act,— Amendment of section 80C.
- (a) in sub-section (2), after clause (xxii), the following clauses shall be inserted, namely:—
- “(xxiii) in an account under the Senior Citizens Savings Scheme Rules, 2004;
- (xxiv) as five year time deposit in an account under the Post Office Time Deposit Rules, 1981.”;