

Exemptions and deductions

Exemption available under sections 10, 10A, 10AA, 10B, 10BA, 10C, 13A, 80C to 80U are of special nature and are allowed to certain specified categories of taxpayers [Referencer 7]. While sections 10, 10A, 10AA, 10B, 10BA and 13A specify tax-free incomes [paras 104 to 106], sections 80C to 80U provide deductions from gross total income [para 107] in order to arrive at taxable income

Exemptions and deductions

102. Exemptions and deductions available under the Act may broadly be grouped as under :

- a. Tax-free income [secs. 10, 10A, 10B, 10BA and 13A].
- b. Deductions from gross total income [secs. 80C to 80U].
- c. Income forming a part of total income on which no income-tax is payable.

Tax-free incomes [Secs. 10 and 13A]

103. The incomes enumerated below are exempt from tax under sections 10 and 13A :

- Agricultural income [clause (1)].
- Payments received from family income by a member of a Hindu undivided family [clause (2)].
- Share of profit from a firm [clause (2A)].
- Interest received by a non-resident from prescribed securities [clause (4)].

- Interest received by a person* who is resident outside India on amounts credited in the “Non-resident (External) Account”*** [clause (4)].
- In the case of an Indian citizen or a person of Indian origin who is a non-resident, the interest from notified Central Government securities [*i.e.*, National Savings Certificates, VI and VII Issues] if such certificates are subscribed in foreign currency or other foreign exchange remitted from outside through official channels [clause (4B)].
- Leave travel concession provided by an employer to his Indian citizen employee [clause (5)—*see* para 15.17].
- Tax paid by employer of non-resident Indian technician [clause (5B)].
- Value of concessional passage money received by a foreign national employee from his employer [clause (6)(i)—*see* para 15.18].
- Remuneration received by foreign diplomats of all categories [clause (6)].
- Salary received by a foreign citizen in India as an employee of a foreign enterprise provided his stay in India does not exceed 90 days [clause (6)(vi)].
- Salary received by a non-resident foreign citizen as a member of ship’s crew provided his total stay in India does not exceed 90 days [clause (6)(viii)].
- Remuneration received by an employee, being a foreign national, of a foreign Government deputed in India for training in a Government establishment or public sector undertaking [clause (6)(xi)].
- Tax paid on behalf of foreign companies [clause (6A)].
- Tax paid by Government or an Indian concern in the case of a non-resident/foreign company [clause (6B)].
- Income arising to notified foreign companies from services provided in or outside India in projects connected with the security of India [clause (6C)].
- Foreign allowance granted by the Government of India to its employees posted abroad [clause (7)].
- Remuneration received from a foreign Government by an individual who is in India in connection with any sponsored co-operative technical assistance programme with a foreign Government and the income of the family members of such employee [clauses (8) and (9)].
- Remuneration/fees received by non-resident consultants and their foreign employers [clauses (8A) and (8B)].
- Death-*cum*-retirement gratuity subject to the limits specified in para 12.2 [clause (10)].
- Commuted value of pension subject to the limits specified in para 12.3 and with effect from the assessment year 1997-98, any payment received by way of connotation of pension by an individual out of annuity plan of LIC from a fund set up by that corporation [clause (10A)].
- Leave salary [clause (10AA)—*see* para 12.1].
- Retrenchment compensation [clause (10B)—*see* para 12].
- Compensation received by victims of Bhopal gas leak disaster [clause (10BB)].
- Compensation from the Central Government or a State Government or a local authority received by an individual or his legal heir on account of any disaster [clause (10BC)—applicable from the assessment year 2005-06].
- Compensation received from a public sector company at the time of voluntary retirement [clause (10C), *see* para 12.4].
- Tax on non-monetary perquisite paid by employer [clause (10CC)†].

*Joint holders of account are qualified for exemption—Circular No. 592, dated February 4, 1991.

**Taking into account the circumstances under which the NRIs have returned to India and in view of the decision of the Reserve Bank of India to allow them to maintain their NRE/FCNR Accounts up to March 31, 1991, the Central Board of Direct Taxes have clarified that individuals normally resident in Kuwait and returning to India after August 2, 1990 would be eligible for the exemption under section 10(4)(ii) in respect of such accounts maintained up to June 30, 1991—Circular No. 604.

†Exemption under section 10(10C) is available only in respect of tax on non-monetary perquisite paid by employer. The exemption is available whether an employer pays Indian income-tax or foreign income-tax pertaining to non-monetary perquisites of his employee — *Pramod Bhasin v. CIT* [2012] 53 SOT 175 (Delhi). If tax on salary is paid by the employer on behalf of his/its employee, it is a perquisite provided for by way of non-monetary payment and, therefore, the provisions of section 10(10CC) would be applicable—*RBF Rig Corpn. LIC (RBFRC) v. CIT* [2007] 165 Taxman 101 (Delhi)(SB).

- Any sum (including bonus) on life insurance policy (not being a Keyman insurance policy) [clause (10D), see para 0.13].
- Any amount from statutory provident fund or public provident fund [clause (11)].
- Accumulated balance due and becoming payable to an employee from a recognized provident fund to the extent it is provided in rule 8 of Part A of the Fourth Schedule [clause (12)—see para 17].
- Amount from an approved superannuation fund to legal heirs of the employee [clause (13)—see para 18].
- House rent allowance subject to certain limits [clause (13A)—see para 13.1].
- Special allowance granted to an employee [clause (14)—see para 13.3].
- Income received by a public financial institution as exchange risk premium in certain cases [clause (14A)].
- Interest from certain exempted securities [clause (15)—see para 77.3-1].
- Payment made by an Indian company, engaged in the business of operation of an aircraft, to acquire an aircraft on lease from a foreign Government or foreign enterprise [clause 15A].
- Scholarship granted to meet the cost of education [clause (16)].
- Daily allowance of a Member of Parliament or State Legislature (entire amount is exempt), and any other allowance subject to certain conditions [clause (17)].
- Rewards given by the Central or State Government for literary, scientific or artistic work or attainment or for service for alleviating the distress of the poor, the weak and the ailing, or for proficiency in sports and games or gallantry awards approved by the Government [clause (17A)].[†]
- Pension and family pension of gallantry award winners [clause (18)].
- *Ex gratia* payments made by the Central Government consequent on the abolition of privy purse [clause (18A)].
- Family pension received by family members of armed forces [clause (19)].
- Notional property income of any one place occupied by a former ruler [clause (19A)].
- Income of local authorities [clause (20)].
- Any income of housing boards constituted in India for planning, development or improvement of cities, towns or villages [clause (20A)].
- Any income of an approved research association [clause (21)].
- Income of a notified news agency (*i.e.*, PTI for the assessment years 1994-95 to 2015-16 and UNI for the assessment years 1994-95 to 2011-12) [clause (22B)].
- Any income (other than interest on securities, income from property, income received for rendering any specific services and income by way of interest or dividends) of approved professional bodies [clause (23A)].
- Any income received by any person on behalf of any Regimental Fund or non-public fund established by the armed forces of the Union for the welfare of the past and present members of such forces or their dependants [clause (23AA)].
- Any income of the pension fund set up by LIC or any other insurer approved by the Controller of Insurance or Insurance Regulatory and Development Authority [clause (23AAB)].
- Income of funds established for the welfare of employees [clause (23AAA)].
- Any income (other than business income) of a trust or a society approved by Khadi and Village Industries Commission [clause (23B)].
- Income of an authority whether known as Khadi and Village Industries Board or by any other name for the development of khadi and village industries [clause (23BB)].
- Income arising to any body or authority established, constituted or appointed under any enactment for the administration of public, religious or charitable trusts or endowments or societies for religious or charitable purposes [clause (23BBA)].
- Income of the European Economic Community derived in India by way of interest, dividends or capital gains in certain cases under the European Community International Institutional Partners Scheme, 1993 [clause (23BBB)].
- Any income of SAARC Fund for Regional Projects [clause (23BBC)].
- Any income of Secretariat of Asian Organisation of Supreme Audit Institutions [clause (23BBD)].
- Income of North-Eastern Finance Corporation [clause (23BBF)].

[†]Any payment made, whether in cash or in kind, as a reward by the Central Government or a State Government to the medal winners of the Olympic Games or Commonwealth Games or Asian Games - Order [F. No. 199/03/2013-ITA.1], dated January 28, 2014.

- Income of the Central Electricity Regulatory Commission [clause (23BBG)].
- Income of the Prasar Bharati (Broadcasting Corpn. of India) [clause (23BBH), applicable from the assessment year 2013-14].
- Income received by any person on behalf of specified national funds, approved public charitable institutions, educational institute and hospital [clause (23C)].
- Income of a Mutual Fund set up by a public sector bank or public financial institution [clause (23D)].
- Any income of a securitisation trust from the activity of securitisation [clause (23DA)].
- Income of the notified Exchange Risk Administration Fund (*i.e.*, Exchange Risk Administration Fund set up by IDBI, IFCI and ICICI or set up by the Power Finance Corporation Ltd. [clause (23E)].
- Income of investor protection fund [clause (23EA)].
- Income of Credit Guarantee Fund Trust [clause (23EB)].
- Income of Investor Protection Fund by way of contributions from commodity exchange and the members thereof [clause (23EC)].
- Any income of Investor Protection Fund by way of contributions received from a depository [clause (23ED)].
- Income by way of dividends and long-term capital gains of venture capital funds and venture capital companies [clause (23F)].
- Income by way of dividend or long-term capital gain of venture capital fund/undertaking [clause (23FA)].
- Income of venture capital fund/venture capital company [clause (23FB)].
- **Any income of a business trust by way of interest received or receivable from a special purpose vehicle [clause (23FC), applicable from the assessment year 2015-16].**
- **Any distributed income (referred to in section 115UA), received by a unit holder from the business trust, not being that proportion of the income which is of the same nature as the income referred to in clause (23FC) [clause (23FD), applicable from the assessment year 2015-16].**
- Dividend, interest, etc. of an infrastructure capital fund [clause (23G)].
- Income by way of interest on securities, property income and income from other sources of a registered trade union or an association of registered trade unions [clause (24)].
- Any income received by a person on behalf of statutory provident fund, recognised provident fund, approved superannuation fund, approved gratuity fund and approved coal-mines provident fund [clause (25)].
- Income of Employees' State Insurance Fund [clause (25A)].
- Income of a member of a scheduled tribe, residing in Nagaland, Manipur, Tripura, Arunachal Pradesh, Mizoram and Ladakh which accrues/arises to him from any source in the said area or any income by way of dividend and interest on securities [clause (26)].
- Any income accruing or arising to any resident of Ladakh from any source therein or out of India up to the assessment year 1988-89, provided that such person was resident in Ladakh in the previous year relevant to the assessment year 1962-63 [clause (26A)].
- Any income of an individual, being a Sikkimese, which accrues or arises from any source in the State of Sikkim or by way of dividend or interest on securities [clause (26AAA)].
- Any income of an agricultural produce marketing committee/board constituted under any law for the purpose of the marketing of agricultural produce [clause (26AAB)].
- Any income of a statutory corporation or of a body/institution, financed by the Government formed for promoting the interest of scheduled castes/tribes [clause (26B)].
- Income of National Minorities Development and Finance Corporation [clause (26BB)].
- Income of ex-serviceman corporations [clause (26BBB)].
- Income of a co-operative society formed for promoting interest of members of scheduled castes/tribes [clause (27)].
- Income of the marketing authority from letting of godowns and warehouses [clause (29)].
- Income of certain Commodity Boards/Authorities [clause (29A)].
- Subsidy from the Tea Board for replanting or replacement of tea bushes or for rejuvenation or consolidation of areas used for cultivation of tea in India [clause (30)].
- Subsidy received by planters [clause (31)].
- Income of a minor child up to Rs. 1,500 in respect of each minor child whose income is includible under section 64(1A) [clause (32)].
- Capital gains on transfer of US64 [clause (33), *see* para 63.2-1].

- Dividend on or after April, 2003 from domestic companies [clause (34)].
- Any income arising to a shareholder on account of buy back of unlisted shares by the company as referred to in section 115QA [clause (34A)].
- Interest on units of a Mutual Fund on or after April 1, 2003 [clause (35)].
- Any income by way of distributed income referred to in section 115TA received from a securitisation trust by any person being an investor of the said trust [clause (35A)].
- Capital gains on transfer of listed equity shares [clause (36)].
- Capital gain on compensation received on compulsory acquisition of urban agriculture land [clause (37)—see para 63.2-3].
- Long-term capital gain in some cases [clause (38), see para 63.2-4].
- Income from any international sporting event [clause (39)]†.
- Grant received by subsidiary company from holding company in the case of revival of an existing business of power generation [clause (40)].
- Capital gain in the above case [clause (41)].
- Income of a body under an agreement [clause (42)].
- Any income received by an individual as a loan, either in lump sum or in instalment in a transaction of reverse mortgage [clause (43)].
- Any income received by any person for, or on behalf of, the New Pension System Trust [clause (44)].
- Notified allowances/perquisites given to the Chairman, a retired Chairman or any other member or retired member of the Union Public Service Commission [clause (45)].
- Any specified income arising to a notified body/authority/board/trust/commission with the object of regulating/administrating any activity for the benefit of general public [clause (46)].
- Any income of an infrastructure debt fund set up in accordance with notified guidelines [clause (47)].
- Any income received in India in Indian currency by a foreign company on account of sale of crude oil (or with effect from the assessment year 2014-15, any other notified goods or notified service) to any person in India [clause (48)].
- Any income of the National Financial Holdings Company Ltd. [clause (49)].
- Any income of a political party by way of interest on securities, property income, income from other sources or income by way of political contributions [sec. 13A].
- Voluntary contribution received by an electoral trust if a few conditions are satisfied [sec. 13B].

Special provisions in respect of newly established undertakings in free trade zone, etc. [Sec. 10A]

104. Section 10A makes special provision in respect of newly established undertakings in free trade zone, etc. The provisions given below are applicable from the assessment year 2001-02.

104.1 Conditions to be satisfied - In order to get deduction, an undertaking must satisfy the following conditions :

104.1-1 MUST BEGIN MANUFACTURE OR PRODUCTION IN FREE TRADE ZONE - It has begun or begins to manufacture/produce‡ articles or things or computer software during the following years—

<i>Location</i>	<i>Year</i>
Free Trade Zone	During the previous year relevant to the assessment year 1981-82 or any subsequent year.
Electronic hardware technology park or software technology park	During the previous year relevant to the assessment year 1994-95 or any subsequent year.
Special economic zone	From April 1, 2000 to March 31, 2005*

†See Notification No. 91/2009, dated December 8, 2009.

*In the case of unit which begins to manufacture or produce an article or thing or computer software on or after April 1, 2005 in a special economic zone, deduction will not be available under section 10A. Such unit can claim deduction under section 10AA.

‡It will also include polishing of precious stones with effect from the assessment year 2004-05.

Free trade zones - Free Trade Zones are : Kandla Free Trade Zone, Santacruz Electronics Export Processing Zone, Falta Export Processing Zone, Madras Export Processing Zone, Cochin Export Processing Zone and Noida Export Processing Zone.

Electronic/software/hardware technology park - "Electronic hardware technology park" means any park set up in accordance with the Electronic Hardware Technology Park (EHTP) Scheme notified by the Government of India in the Ministry of Commerce and Industry.

Software technology park - "Software technology park" means any park set up in accordance with the Software Technology Park (STP) Scheme notified by the Government of India in the Ministry of Commerce and Industry.

For the purpose of section 10A or 10B, as long as a unit in the EPZ/EOU/STP itself produces computer programmes and exports them, it should not matter whether the programme is actually written within the premises of the unit. Where a unit in the EPZ/EOU/STP develops software *sur place*, that is, at the client's site abroad, such unit should not be denied the tax holiday under section 10A or 10B on the ground that it was prepared on-site, as long as the software is a product of the unit, *i.e.*, it is produced by the unit.

Computer software - Computer software means—

- a. any computer programme recorded on any disc, tape, perforated media or other information storage device; or
- b. any customized electronic data or any product or service of similar nature, as may be notified by the Board, which is transmitted or exported from India to any place outside India by any means.

The Central Board of Direct Taxes has specified the following Information Technology enabled products or services, as the case may be, for this purpose namely : (i) Back-office Operations; (ii) Call Centres; (iii) Content Development or Animation; (iv) Data Processing; (v) Engineering and Design; (vi) Geographic Information System Services; (vii) Human Resource Services; (viii) Insurance Claim Processing; (ix) Legal Databases; (x) Medical Transcription; (xi) Payroll; (xii) Remote Maintenance; (xiii) Revenue Accounting; (xiv) Support Centres; and (xv) Website Services.

104.1-2 SHOULD NOT BE FORMED BY SPLITTING/RECONSTRUCTION OF BUSINESS - The industrial undertaking should not have been formed by the splitting up or reconstruction of a business already in existence. However, where an industrial undertaking is formed as a result of re-establishment, reconstruction or revival by the assessee of the business of any such industrial undertaking as is referred to in section 33B, in the circumstances and within the period specified in that section the same will qualify for the tax concession.

104.1-3 SHOULD NOT BE FORMED BY TRANSFER OF OLD MACHINERY - The industrial undertaking should not have been formed by the transfer of a new business of machinery or plant previously used for any purpose. For this purpose, any machinery or plant which was used outside India by any person other than the assessee is not regarded as machinery or plant previously used for any purpose if the following conditions are fulfilled, namely:

- a. such machinery or plant was not previously used in India;
- b. such machinery or plant is imported into India from a foreign country; and
- c. no deduction on account of depreciation in respect of such machinery or plant has been allowed or is allowable in computing the total income of any person for any period prior to the installation of the machinery or plant by the assessee.

Further, this tax concession is not denied in a case where the total value of used machinery or plant transferred to the new business does not exceed 20 per cent of the total value of the machinery or plant used in that business.

104.1-4 THERE MUST BE REPATRIATION OF SALE PROCEEDS INTO INDIA - Sale proceeds of articles or things or computer software exported out of India must be received in, or brought into India by the assessee in convertible foreign exchange during the previous year or within a period of six months from the end of the relevant previous year. For instance, for the assessment year 2011-12, the repatriation of the sale proceeds into India must be completed on or before September 30, 2011. The sale proceeds shall be deemed to have been received in India where such sale proceeds are credited to a separate account maintained for the purpose by the assessee with any bank outside India with the approval of the Reserve Bank of India.

● *Extension of time-limit* - The aforesaid limit of six months can be extended by the Reserve Bank of India or such other competent authority as is authorised under any law for the time being in force for regulating payments and dealings in foreign exchange.

● *Remittance after the expiry of time-limit* - If foreign exchange is not remitted within six months from the end of the previous year (or within the extended time-limit as approved by RBI**), then deduction under sections 10A, 10B and 10BA is not available. In such a case—

- a. if the foreign currency is remitted after the expiry of time-limit of 6 months (or after the expiry of extended time-limit);
- b. the Assessing Officer shall amend the order of assessment so as to allow deduction under sections 10A, 10B and 10BA;
- c. the order shall be amended within a period of 4 years from the end of the previous year in which the foreign currency is remitted.

**Extension of time for realization of export proceeds by the competent authority under FEMA can be said to be approval granted by the competent authority under section 10A(3)—*CIT v. Morgan Stanley Advantage Services (P.) Ltd.* [2011] 202 Taxman 40 (Bom.).

104.1-5 *AUDIT* - Deduction under section 10A shall not be admissible with effect from April 1, 2001, unless the assessee furnishes in the prescribed form [Form No. 56F] along with the return[†] of income, the report of a chartered accountant certifying that the deduction has been correctly claimed in accordance with the provisions of section 10A.

104.1-6 *DEDUCTION SHOULD BE CLAIMED IN THE RETURN OF INCOME* - Deduction under section 10A is not available unless it is claimed in the return of income. In other words, if the assessee fails to make a claim in his return of income of this deduction, the same will not be allowed (applicable from the assessment year 2003-04 onwards).

104.2 *Amount of deduction - General provision* - If the aforesaid conditions are satisfied, the deduction under section 10A may, be computed as under :

Profits of the business of the undertaking \times Export turnover \div Total turnover of the business carried on by the undertaking¹

• The following points should be considered—

1. *Export turnover* - For this purpose, 'export turnover' means the consideration in respect of export by the undertaking of articles or things or computer software received in (or brought into) India by the assessee in convertible foreign exchange within the prescribed period but does not include the following :

- a. freight;
- b. telecommunication charges;
- c. insurance attributable to the delivery of the articles or things or computer software outside India;
- d. expenses, if any, incurred in foreign exchange in providing the technical services outside India.

Freight, telecommunication charges and insurance are deductible only if the assessee from the importers recovers these in addition to sale price of goods. If nothing is recovered from the importers but these expenses are incurred by the assessee, then no adjustment is required. In cases where such expenses are separately charged, the expenses are required to be reduced from the consideration received for the purpose of arriving the export turnover—*Patni Telecom (P.) Ltd. v. ITO* [2008] 22 SOT 38 (Hyd.). When these expenses are excluded for the purposes of 'export turnover' then on the same assumption, reason and analogy it should be excluded from 'total turnover'.

Sale of software by one STP to another STP within the country cannot be treated as deemed export for the purposes of exemption under section 10A—*Tata Elxsi Ltd. v. CIT* [2008] 115 TTJ (Bang.) 423.

2. *Site development* - On site development of computer software (including services for development of software) outside India, shall be deemed to be export of computer software outside India.

In *CIT v. Softsol India Ltd.* [2008] 22 SOT 271 (Hyd.), it was held that expenditure towards on-site development of software could not be reduced from convertible foreign exchange received by the assessee for the purpose of reckoning the export turnover in terms of section 10A. If the technical services are rendered independently which is being agreed to separately charge in addition to the price of the goods, in such circumstances expenditure incurred could be in the nature of expenditure for the purpose of technical services. Conversely, if expenditure is incurred by an assessee on account of travelling allowances and others for the purpose of development of software at client's site outside India, *i.e.*, in respect of goods, such expenditure is not in the nature of expenditure for technical services. Since the expenditure is not for technical services, there is no need to exclude these expenditures from consideration received in convertible foreign exchange for the purpose of calculating 'export turnover' as defined in clause (iv) of *Explanation 2* of section 10A.

3. *Foreign exchange fluctuation* - Deduction under section 10A has to be allowed in respect of profit on account of foreign exchange gain—*Renaissance Jewellery (P.) Ltd. v. ITO* [2005] 4 SOT 50 (Mum.).

4. *Royalty* - Royalty earned from export of software is entitled to relief under section 10A—*Wipro Limited v. CIT* [2005] 96 TTJ (Bang.) 211.

5. *Losses of other undertakings* - Profit for the business of undertaking shall be calculated without adjusting losses and unabsorbed depreciation of other undertakings (eligible or non-eligible unit under section 10A)—*CIT v. Yokogawa India Ltd.* [2007] 13 SOT 470 (Bang.), *FCI Technology Services Ltd. v. CIT* [2011] 9 taxmann.com 47 (Coch. - ITAT).

6. *Brought forward losses* - Brought forward losses (incurred after April 1, 2001) cannot be deducted from profit of the business of the undertaking. In other words, deduction under section 10A will be available in respect of profit of an eligible undertaking without setting off of brought forward losses.

7. *Section 80AB* - Deduction under section 10A is not controlled by section 80AB as deduction under section 10A is not a deduction under Chapter VI-A—*Enercon Wind Farms (Krishna) Ltd. v. CIT* [2008] 21 SOT 29 (Mum.).

8. *Arm's Length price* - As per proviso to section 92C(4), no deduction under section 10A or 10AA or 10B or under Chapter VI-A is to be allowed in respect of amount of income by which the total income of the assessee is enhanced as a result of computation of arm's length price—*I Gate Global Solutions Ltd. v. CIT* [2008] 24 SOT 3 (Bang.).

1. For the assessment year 2003-04, 90 per cent of it is deductible.

[†]From April 1, 2014, audit report should be submitted electronically. Provisions pertaining to electronic submission of audit report were not applicable prior to April 1, 2014 (for period prior to April 1, 2014, audit report may be retained by the assessee and it may be furnished in original whenever the Assessing Officer wants to examine it in assessment proceedings or otherwise).

104.2-1 PERIOD OF DEDUCTION - If the aforesaid conditions are satisfied, the assessee can claim deduction under section 10A from his total income, for a period of ten consecutive assessment years beginning with the assessment year relevant to the previous year in which the undertaking begins to manufacture or produce such articles or things or computer software.

- For the undertakings which have claimed exemption up to assessment year 2000-01 under the old section 10A, the deduction shall be available for the unexpired period of the 10 consecutive assessment years under the new section 10A.
- For an undertaking which was initially located in free trade zone or export processing zone and is subsequently located in a special economic zone by reason of conversion of such zones into a special economic zone, the deduction shall be available for 10 years from the previous year in which the undertaking was first set up in such free trade zone or export processing zone.
- 'Relevant assessment year' means any assessment year falling within a period of ten consecutive assessment years referred to in section 10A.
- No deduction under section 10A shall be allowed to any undertaking from the assessment year 2012-13.

104.3 Amount of deduction - Special provision - The deduction under section 10A in the case of an undertaking which begins to manufacture or produce articles or things or computer software during April 1, 2002 and March 31, 2005[†] in any special economic zone, shall be as follows[‡] (this deduction is available even beyond the assessment year 2011-12)—

- *First 5 years* - 100 per cent of profits and gains derived from the export of such articles or things or computer software is deductible for a period of 5 consecutive assessment years (beginning with the assessment year relevant to the previous year in which the undertaking begins to manufacture or produce such articles or things or computer software, as the case may be).
- *Sixth and seventh year* - 50 per cent of such profits and gains is deductible for further 2 assessment years.
- *Eighth, ninth and tenth year* - For the next three years, a further deduction would be available to the extent of 50 per cent of the profit provided an equivalent amount is debited to the profit and loss account of the previous year and credited to Special Economic Zone Re-investment Allowance Reserve Account (hereinafter referred to as Special Reserve Account). The following conditions should be satisfied—
 1. The Special Reserve Account should be utilised for the purpose of acquiring new plant and machinery.
 2. The new plant and machinery should be first put to use before the expiry of 3 years from the end of the year in which the Special Reserve Account was created.
 3. Until the acquisition of new plant and machinery the Special Reserve Account can be utilised for the business purposes of the undertaking but it cannot be utilised for distribution of dividends/profits or for remittance outside India as profits or for creating an asset outside India.
 4. Prescribed particulars [Form No. 56FF] should be submitted[£] in respect of new plant and machinery along with the return of income for the previous year in which such plant and machinery was first put to use.
 5. If the Special Reserve Account is misutilised then the deduction would be taken back in the year in which the Special Reserve Account is misutilised. If the Special Reserve Account is not utilised for acquiring new plant and machinery within three years as stated above then the deduction would be taken back in the year immediately following the period of three years.

104.4 Consequences of amalgamation/demerger* - Where an undertaking of an Indian company is transferred to another company under a scheme of amalgamation or demerger, the deduction under section 10A or 10B shall be allowable in the hands of the amalgamated or the resulting company. However, no deduction shall be admissible under these sections to the amalgamating company or the demerged company for the previous year in which amalgamation or demerger takes place.

104.5 Power of the income-tax department to recompute profits - In the following circumstances, the Assessing Officer has power to ignore the declared profit and to make necessary adjustments so as to arrive at the profits for the purpose of deduction under section 10A.

- If any goods held for the purpose of the eligible business is transferred to any other business carried on by the assessee, and *vice versa*, and in either case, the consideration if any for such transfer as recorded in the accounts of the eligible business does not correspond to the market value of such goods as on the date of transfer, profits of the eligible business

[†]If these activities are commenced after March 31, 2005, one can claim deduction under section 10AA.

[‡]Deduction will not be available from the assessment year 2006-07 if return of income is not submitted on or before the due date given in section 139(1) [see para 118.3].

[£]It is not possible to attach any certificate, statement or audit report with new income-tax return forms. The assessee should himself retain Form No. 56FF. It may be furnished in original whenever the Assessing Officer wants to examine it in assessment proceedings or otherwise.

*A similar benefit is available in the case of sections 10AA, 10B, 80-IA, 80-IAB, 80-IB, 80-IC and 80-IE. However, under section 80-IA, the benefit is available only when amalgamation/demerger takes place before April 1, 2007.

will be computed as if the transfer in either case had been made at the market value of the goods as on that date. If such a manner of computation is found, in the opinion of the Assessing Officer, to present exceptional difficulties, the Assessing Officer is authorised to compute the profits on such reasonable basis as he may deem fit. This power has been granted to the Assessing Officer with a view to curb any attempt to under-invoice or over-invoice goods by the assessee in order to inflate the profits of the eligible business. For this purpose, the expression "market value" is defined to mean the price that such goods would ordinarily fetch on sale in the open market.

- If it appears to the Assessing Officer that business between the assessee (engaged in eligible business) and any other person is so arranged that the business transacted between them produces to the assessee more than the ordinary profits that might be expected to arise in such eligible business, either due to the close connection between the assessee and that other person or due to any other reason, then the Assessing Officer shall take the amount of profit as may be reasonably deemed to have been derived therefrom.

104.6 Impact of claiming deduction under section 10A - One should note the following consequences :

- For the assessment year(s) succeeding the last assessment year for which the deduction is claimed under this section, deduction under section 32 and the expenditures under sections 35 and 36(1)(ix) pertaining to the assessment year 2000-01 (or earlier year) would be considered as had been given. Unabsorbed depreciation allowances or unabsorbed capital expenditure on scientific research or family planning (pertaining to the assessment year 2000-01 or earlier years) are not allowed to be carried forward and set off against the income of assessment years following the period of deduction (*i.e.*, the assessment year succeeding the last assessment year for which deduction is claimed under section 10A). However, this restriction is not applicable to losses in respect of other businesses—*Lason India (P.) Ltd. v. ITO* [2008] 301 ITR (AT) 306 (Chennai).

- The losses under section 72(1) or 74(1) or 74(3) (pertaining to the assessment year 2000-01 or earlier years) are not allowed to be carried forward in assessment years succeeding† the period of deduction. The deductions under section 80-IA or 80-IB shall also not be available to such undertakings after the expiry of tax holiday period. However, there is no bar to adjust losses under sections 70 and 71. In other words, if loss is incurred by an undertaking which is otherwise eligible for deduction under section 10A, it can be set off under the provisions of sections 70 and 71 against other incomes of the taxpayer—*Sovika Infotek Ltd. v. ITO* [2008] 23 SOT 273 (Mum.).

- In the assessment year following period of deduction, the depreciation will be computed on the written down value of the asset as if the depreciation has actually been allowed in respect of each assessment year falling in the period of exemption.

104.7 Option available to new undertakings not to claim deduction under section 10A - The benefits under this section are optional. In case the assessee does not wish to claim the benefit under section 10A he has to file a declaration to this effect along with the return of income before the due date of filing the return for the first assessment year for which the deduction under this section is available to him.

Special provisions in respect of newly established units in Special Economic Zone [Section 10AA]

104A. Section 10AA has been inserted to give income-tax concession to newly established units in Special Economic Zone.

104A.1 Conditions - The following conditions should be satisfied to claim deduction under section 10AA—

- *Condition 1* - The assessee is an entrepreneur as defined in section 2(j) of SEZ Act, 2005. Entrepreneur is a person who has been granted a letter of approval by the Development Commissioner to set up a unit in a Special Economic Zone.

- *Condition 2* - The unit in Special Economic Zone begins to manufacture or produce articles or things or provide services during the financial year 2005-06 or any subsequent year. Manufacture for this purpose means to make, produce, fabricate, assemble, process or bring into existence, by hand or by machine, a new product having a distinctive name, character or use and shall include processes such as refrigeration, cutting, polishing, blending, repair, remaking, re-engineering and includes agriculture, aquaculture, animal husbandry, floriculture, horticulture, pisciculture, poultry, sericulture, viticulture and mining.

- *Condition 3* - The undertaking should not be formed by splitting up, or the reconstruction, of a business already in existence. The condition of "new undertaking" is not applicable where the business is re-established, reconstructed or revived by the same assessee after the business of any industrial undertaking carried on by him in India is discontinued due to extensive damage to, or destruction of, any building, machinery, plant or furniture owned by the assessee (and used for the purpose of such business) as a direct result of (i) flood, typhoon, hurricane, cyclone, earthquake or other convulsion of nature, or (ii) riot or civil disturbance, or (iii) accidental fire or explosion, or (iv) action by any enemy or action taken in combating an enemy (whether with or without a declaration of war).

†This restriction will apply only to post-tax holiday period and not to previous years within tax holiday period—*Enercon Wind Farms (Krishna) Ltd. v. CIT* [2008] 21 SOT 29 (Mum.).

- *Condition 4* - It is not formed by a transfer to a new business of machinery and plant previously used for any purpose. [for two exceptions, see para 104.1-3]
- *Condition 5* - The assessee has income from export of articles or thing or from services from such unit. In other words, the assessee has exported goods or provided services out of India from the Special Economic Zone by land, sea, air or by any other mode, whether physical or otherwise.
- *Condition 6* - Books of the account of the taxpayer should be audited. The taxpayer should submit† audit report in Form No. 56F along with the return of income.
- *Condition 7* - Deduction under section 10AA is not available unless it is claimed in the return of income. In other words, if the assessee fails to make a claim in his return of income of this deduction, the same will not be allowed (applicable from the assessment year 2003-04 onwards).

104A.2 Amount of deduction - If the above conditions are satisfied, one can claim deduction under section 10AA. Deduction depends upon quantum of profit derived from export of articles or things or services (including computer software). It is calculated as under—

$\text{Profits of the business of the undertaking} \times \text{Export turnover of the undertaking} \div \text{Total turnover of the business carried on by the "undertaking"***}$
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• *What is "export turnover"* - For this purpose, 'export turnover' means the consideration in respect of export by the undertaking of articles or things or services received in, or brought into India by the assessee, but does not include the following :

- a. freight;
- b. telecommunication charges;
- c. insurance attributable to the delivery of the articles or things or computer software outside India;
- d. expenses, if any, incurred in foreign exchange in providing the technical services (including computer software) outside India.

Freight, telecommunication charges and insurance are deductible only if the assessee from the importers recovers these in addition to sale price of goods. If nothing is recovered from the importers but these expenses are incurred by the assessee, then no adjustment is required. What is to be excluded is out of what is received. If the consideration received is only against the goods then there is no need to deduct such expenses from the consideration received in convertible foreign exchange. In cases where such expenses are separately charged, the expenses are required to be reduced from the consideration received for the purpose of arriving the export turnover—*Patni Telecom (P.) Ltd. v. ITO* [2008] 22 SOT 38 (Hyd.). When these expenses are excluded for the purposes of 'export turnover' then on the same assumption, reason and analogy it should be excluded from 'total turnover'.

• *Site development of computer software* - Profits and gains derived from on site development of computer software (including services for development of software) outside India shall be deemed to be the profits and gains derived from the export of computer software outside India.

• *Losses of other undertakings* - Losses of other undertakings (eligible or non-eligible under section 10AA) shall not be adjusted against profit of a unit which is eligible for deduction under section 10AA—*FCI Technology Services Ltd. v. CIT* [2011] 9 taxmann.com 47 (Coch. - ITAT).

• *Brought forward losses* - Brought forward losses (incurred after April 1, 2001) cannot be deducted from profit of the business of the undertaking. In other words, deduction under section 10AA will be available in respect of profit of an eligible undertaking without setting off of brought forward losses.

• *Section 80AB* - Deduction under section 10AA is not controlled by section 80AB as deduction under section 10AA is not a deduction under Chapter VI-A—*Enercon Wind Farms (Krishna) Ltd. v. CIT* [2008] 21 SOT 29 (Mum.).

• *Proviso to section 92C(4)* - As per proviso to section 92C(4), no deduction under section 10A or 10AA or 10B or under Chapter VI-A is to be allowed in respect of amount of income by which the total income of the assessee is enhanced after computation of arm's length price.

• ***Double deduction under sections 10AA and 35AD not possible - If deduction is claimed in respect of a specified business [as referred to in section 35AD(8)(c)] under section 10AA, no deduction in respect of that business will be available under section 35AD (applicable from the assessment year 2015-16).***

†From April 1, 2014, audit report should be submitted electronically. Provisions pertaining to electronic submission of audit report were not applicable prior to April 1, 2014 (for period prior to April 1, 2014, audit report may be retained by the assessee and it may be furnished in original whenever the Assessing Officer wants to examine it in assessment proceedings or otherwise).

**Applicable from the assessment year 2006-07 onwards.

104A.2-1 *DEDUCTION FOR FIRST FIVE ASSESSMENT YEARS*- 100 per cent of the profit and gains derived from export of articles or things or from services is deductible for a period of 5 consecutive assessment years. Deduction for the first year is available in the assessment year relevant to the previous year in which the unit begins to manufacture or produce articles or things or provide services.

104A.2-2 *DEDUCTION FOR SIXTH ASSESSMENT YEAR TO TENTH ASSESSMENT YEAR* - 50 per cent of the profit and gains derived from export of articles or things or from services is deductible for the next 5 years.

104A.2-3 *DEDUCTION FOR ELEVENTH ASSESSMENT YEAR TO FIFTEENTH ASSESSMENT YEAR* - For the next 5 years, a further deduction would be available to the extent of 50 per cent of the profit provided an equivalent amount is debited to the profit and loss account of the previous year and credited to Special Economic Zone Re-investment Allowance Reserve Account (hereinafter referred to as Special Reserve Account). The following conditions should be satisfied—

1. The Special Reserve Account should be utilised for the purpose of acquiring new plant and machinery.
2. The new plant and machinery should be first put to use before the expiry of 3 years from the end of the year in which the Special Reserve Account was created. For instance, if the reserve account was created during the previous year ending March 31, 2012, it should be utilized for acquiring machinery or plant on or before March 31, 2015.
3. Until the acquisition of new plant and machinery the Special Reserve Account can be utilised for the business purposes of the undertaking but it cannot be utilised for distribution of dividends/profits or for remittance outside India as profits or for creating an asset outside India.
4. Prescribed particulars [Form No. 56FF] should be submitted* in respect of new plant and machinery along with the return of income for the previous year in which such plant and machinery was first put to use.
5. If the Special Reserve Account is misutilised, then the deduction would be taken back in the year in which the Special Reserve Account is misutilised. If the Special Reserve Account is not utilised for acquiring new plant and machinery within three years as stated above, then the deduction would be taken back in the year immediately following the period of three years. For instance, if Rs. 1,50,000 is transferred to the reserve account for the year ending March 31, 2012 and out of which only Rs. 96,000 is utilized for acquiring plant and machinery up to March 31, 2015, then Rs. 54,000 would be taxable for the previous year 2015-16.

104A.3 *Consequences for merger and demerger*† - Where an undertaking is transferred to another company under a scheme of amalgamation or demerger, the deduction under section 10AA shall be allowable in the hands of the amalgamated or the resulting company. However, no deduction shall be admissible under this section to the amalgamating company or the demerged company for the previous year in which amalgamation or demerger takes place.

104A.4 *Consequences of claiming deduction under section 10AA* - One should note the following consequences—

- Unabsorbed depreciation allowances or unabsorbed capital expenditure on scientific research or family planning (pertaining to the assessment year 2005-06 or earlier years) are not allowed to be carried forward and set off against the income of assessment years following the period of deduction. However, this restriction is not applicable to losses in respect of other businesses—*Lason India (P.) Ltd. v. ITO* [2008] 301 ITR (AT) 306 (Chennai).
- The losses under section 72(1) or 74(1) or 74(3) (pertaining to the assessment year 2005-06 or earlier years) are not allowed to be carried forward in assessment years succeeding‡ the period of deduction. The deductions under section 80-IA or 80-IB shall also not be available to such undertakings after the expiry of tax holiday period.
- However, there is no bar to adjust losses under sections 70 and 71. In other words, if loss is incurred by an undertaking which is otherwise eligible for deduction under section 10AA, it can be set off under the

*It is not possible to attach any report with new income-tax return forms. The assessee should himself retain the report. It may be furnished in original whenever the Assessing Officer wants to examine it in assessment proceedings or otherwise.

†A similar benefit is available in the case of sections 10A, 10B, 80-IA, 80-IAB, 80-IB, 80-IC and 80-IE, if transferor and transferee companies are Indian companies. However, under section 80-IA the benefit is available only when amalgamation/demerger takes place before April 1, 2007.

‡This restriction will apply only to post-tax holiday period and not to previous years within tax holiday period - *Enercon Wind Farms (Krishna) Ltd. v. CIT* [2008] 21 SOT 29 (Mum.).

provisions of sections 70 and 71 against other incomes of the taxpayer—*Sovika Infotek Ltd. v. ITO*[2008] 23 SOT 273 (Mum.).

• In the assessment year following period of deduction, the depreciation will be computed on the written down value of the asset as if the depreciation has actually been allowed in respect of each assessment year falling in the period of exemption.

104A.5 Power of Assessing Officer to recompute profit - The Assessing Officer has power to recompute profit in some cases. These cases are given by section 80-IA(8)/(10) [see para 107.17-1c⁴].

104A.6 Clarifications from Board - Vide Circular No. 1/2013, dated January 17, 2013, the Board has given the following clarifications pertaining to sections 10A, 10AA and 10B –

1. Profits and gains derived from “services for development of software” outside India would also be deemed as profits derived from export. Consequently, profits earned as a result of deployment of technical manpower at the client’s place abroad specifically for software development work pursuant to a contract between the client and the eligible unit should not be denied benefits under sections 10A, 10AA and 10B provided such deputation of manpower is for the development of such software and all the prescribed conditions are fulfilled.

2. Tax benefits under sections 10A, 10AA and 10B would not be denied merely on the ground that a separate and specific Master Services Agreement (MSA) does not exist for each Statement of Works (SOW). The SOW would normally prevail over the MSA in determining the eligibility for tax benefits unless the Assessing Officer is able to establish that there has been splitting up or reconstruction of an existing business or non-fulfilment of any other prescribed condition.

3. On the sole ground of change in ownership of an undertaking, the claim of exemption cannot be denied to an otherwise eligible undertaking and the tax holiday can be availed of for the unexpired period at the rates as applicable for the remaining years, subject to fulfilment of prescribed conditions.

4. No requirement in law to maintain separate books of account, the same cannot be insisted upon. However, since the deductions under these sections are available only to the eligible units, the Assessing Officer may call for such details or information pertaining to different units to verify the claim and quantum of exemption, if so required.

5. Tax holiday should not be denied merely on the ground of physical relocation of an eligible SEZ unit from one SEZ to another in accordance with Instruction No. 59 of Department of Commerce and if all the prescribed conditions are satisfied under the Income-tax Act. The unit so relocated will be eligible to avail of the tax benefit for the unexpired period at the rates applicable to such years.

6. Whether setting up of new unit/undertaking in a location (covered by section 10A, 10AA or 10B), where an eligible unit is already existing, would amount to expansion of such already existing unit is a matter of fact requiring examination and verification. However, setting up of such a fresh unit in itself would not make the unit ineligible for tax benefits, as long as the unit is set up after obtaining necessary approvals from the competent authorities; has not been formed by splitting or reconstruction of an existing business; and fulfils all other conditions prescribed in the relevant provisions of law.

7. The software developed abroad at a client’s place would be eligible for benefits under the respective provisions, because these would amount to ‘deemed export’ and tax benefits would not be denied merely on this ground. However, since the benefits under these provisions can be availed of only by the units or undertakings set up under specified schemes in India, it is necessary that there must exist a direct and intimate nexus or connection of development of software done abroad with the eligible units set up in India and such development of software should be pursuant to a contract between the client and the eligible unit.

Special provisions in respect of newly established hundred per cent export-oriented undertakings [Sec. 10B]

105. Section 10B has been inserted with a view to providing incentive (similar to tax holiday available under section 10A) to hundred per cent export-oriented units.

The provisions applicable from the assessment year 2001-02 are given below :

105.1 Conditions to be satisfied - An undertaking must satisfy the following conditions in order to avail the deduction under section 10B.

105.1-1 IT MUST BE AN APPROVED HUNDRED PER CENT EXPORT-ORIENTED UNDERTAKING - The expression “hundred per cent export-oriented undertaking” means an undertaking which has been approved as a hundred per cent export-

oriented undertaking by the Board appointed in this behalf by the Central Government in exercise of the powers conferred by section 14 of the Industries (Development and Regulation) Act, 1951, and the rules made under that Act⁵.

105.1-2 IT MUST PRODUCE OR MANUFACTURE ARTICLES OR THINGS OR COMPUTER SOFTWARE - It must manufacture or produce any article or thing or computer software. The expression computer software means—

- a. any computer programme recorded on any disc, tape, perforated media or other information storage device; or
 - b. any customized electronic data or any product or service of similar nature as may be notified by the Board,
- which is transmitted or exported from India to any place outside India by any means.

The Central Board of Direct Taxes has specified the following Information Technology enabled products or services, as the case may be, for this purpose: (i) Back-office Operations; (ii) Call Centres; (iii) Content Development or Animation; (iv) Data Processing; (v) Engineering and Design; (vi) Geographic Information System Services; (vii) Human Resource Services; (viii) Insurance Claim Processing; (ix) Legal Databases; (x) Medical Transcription; (xi) Payroll; (xii) Remote Maintenance; (xiii) Revenue Accounting; (xiv) Support Centres; and (xv) Website Services.

● It is not the requirement of section 10B that the assessee-company should itself own plant, machinery or equipment and manufacture or produce computer software on the same in order to be eligible for the exemption—*ITO v. Techdrive (India) (P.) Ltd.* [2008] 24 SOT 1 (Mum.).

105.1-3 IT SHOULD NOT BE FORMED BY SPLITTING/RECONSTRUCTION OF BUSINESS - See para 104.1-2.

105.1-4 IT SHOULD NOT BE FORMED BY TRANSFER OF OLD MACHINERY - See para 104.1-3.

105.1-5 THERE MUST BE REPATRIATION OF SALE PROCEEDS INTO INDIA - See para 104.1-4.

105.1-6 AUDIT REPORT SHOULD BE SUBMITTED IN FORM NO. 56G** - See para 104.1-5.

105.1-7 RETURN OF INCOME - It should be submitted on or before due date*.

105.1-8 DEDUCTION SHOULD BE CLAIMED IN THE RETURN OF INCOME - Deduction under section 10B is not available unless it is claimed in the return of income. In other words, if the assessee fails to make a claim in his return of income of this deduction, the same will not be allowed (applicable from the assessment year 2003-04 onwards).

105.2 Amount of deduction - If the aforesaid conditions are satisfied, the deduction under section 10B may be computed as under :

Profits of the business of the undertaking × Export turnover ÷ Total turnover of the business carried on by the undertaking¹

● *Export turnover* - For this purpose, 'export turnover' means the consideration in respect of export by the undertaking of articles or things or computer software received in, or brought into India by the assessee in convertible foreign exchange within the prescribed period, but does not include the following :

- a. freight;
- b. telecommunication charges;
- c. insurance attributable to the delivery of the articles or things or computer software outside India;
- d. expenses, if any, incurred in foreign exchange in providing the technical services outside India.

● *On site development of software* - Profits and gains derived from on site development of computer software (including services for development of software) outside India shall be deemed to be the profits and gains derived from the export of computer software outside India.

● *Commercial basis* - The Karnataka High Court in *CIT v. Himatasingike Seide Ltd.* [2006] 156 Taxman 151 held that exemption in terms of section 10B cannot be allowed on commercial basis.

● *Sale by one EOU to another EOU* - The word "export", in the absence of any specific definition under the Act, would necessarily have to be interpreted in accordance with the meaning ascribed to the said word under the relevant exemption policy, which deems the sale by one EOU to another, as export—*ITO v. Anita Synthetics (P.) Ltd.* [2006] 100 TTJ (Ahd.) 277.

● *Deduction of freight, telecommunication charges, etc.* - Freight, telecommunication charges and insurance are deductible only if the assessee from the importers recovers these in addition to sale price of goods. If nothing is recovered from the

⁵In actual practice, however, such approvals are granted by the Development Commissioners, which are later on ratified by the Board of Approvals.

¹In case of genuine hardship, relief can be granted to assessee under section 10B even if return is not furnished on or before due date specified under section 139(1)—*Asstt. CIT v. Dhir Global Industria (P.) Ltd.* [2011] 43 SOT 640 (Delhi).

**It is not possible to attach any report with new income-tax return forms. The assessee should himself retain the report. It may be furnished in original whenever the Assessing Officer wants to examine it in assessment proceedings or otherwise.

1. 90 per cent for the assessment year 2003-04.

importers but these expenses are incurred by the assessee, then no adjustment is required.—*Patni Telecom (P.) Ltd. v. ITO* [2008] 22 SOT 38 (Hyd.). When these expenses are excluded for the purposes of 'export turnover' then on the same assumption, reason and analogy it should be excluded from 'total turnover'.

- *Only expenses incurred in foreign currency* - On the aforesaid basis, telecommunication charges are deductible but only when these are incurred in foreign currency—*California Software Co. Ltd. v. CIT* [2009] 27 SOT 51 (Chennai).
- *Section 80AB* - Deduction under section 10B is not controlled by section 80AB as deduction under section 10B is not a deduction under Chapter VI-A—*Enercon Wind Farms (Krishna) Ltd. v. CIT* [2008] 21 SOT 29 (Mum.).
- *Proviso to section 92C(4)* - As per proviso to section 92C(4), no deduction under section 10A or 10AA or 10B or under Chapter VI-A is to be allowed in respect of amount of income by which the total income of the assessee is enhanced as a result of computation of arm's length price.
- *Foreign exchange gain* - Foreign exchange gain arising to an assessee on sales realisation in foreign currency on date of its receipt and deposit in EEFC account, amount to income derived from export of goods and services and, therefore, would be eligible for deduction under section 10B. However, foreign exchange gain (being difference in rates on date of withdrawals from EEFC account and date of deposit in that account), would not be part of sales and, consequently, not eligible for exemption under section 10B—*ITO v. Banyan Chemicals (P.) Ltd.* [2009] 117 ITD 376 (Ahd.)(TM).
- *Losses of other units* - Profit of the eligible unit will be qualified for deduction under section 10B without adjusting losses of even those undertakings which are otherwise qualified for deduction under section 10B—*Hindustan Unilever Ltd. v. CIT* [2010] 191 Taxman 119 (Bom.).

105.3 Period of deduction - If the aforesaid conditions are satisfied, the assessee can claim deduction under section 10B, from his total income for a period of ten consecutive assessment years beginning with the assessment year relevant to the previous year in which the undertaking begins to manufacture or produce such articles or things or computer software.

- For the undertakings which have claimed exemption up to assessment year 2000-01 under the old section 10B, the deduction shall be available for the unexpired period of the 10 consecutive assessment years under the new section 10B.
- 'Relevant assessment year' means any assessment year falling within a period of ten consecutive assessment years referred to in section 10B.
- No deduction under section 10B shall be allowed to any undertaking from the assessment year 2012-13.

105.3-1 WHETHER AN EXISTING UNIT IN DTA WHICH IS SUBSEQUENTLY APPROVED AS EOU CAN CLAIM DEDUCTION - An undertaking set up in Domestic Tariff Area (DTA) and deriving profit from export of articles or things or computer software manufactured or produced by it, which is subsequently converted into a EOU, shall be eligible for deduction under section 10B on getting approval as 100 per cent export oriented undertaking. In such a case, the deduction shall be available only from the year in which it has got the approval as 100 per cent EOU and shall be available only for the remaining period of 10 consecutive assessment years, beginning with the assessment year relevant to the previous year in which the undertaking begins to manufacture or produce articles or things or computer software, as a DTA unit. Further, in the year of approval, the deduction shall be restricted to the profits derived from exports, from and after the date of approval of the DTA unit as 100 per cent EOU. Moreover, the deduction such units in any case will not be available after assessment year 2009-10—Circular No. 1/2005, dated January 6, 2005.

105.4 Power of income-tax department to recompute profits - See para 104.5.

105.5 Impact of availing deduction under section 10B - In computing the total income of the assessee of the assessment year immediately succeeding the deduction period the following points should be noted—

- For the assessment year(s) succeeding the last assessment year for which the deduction is claimed under this section, deduction under section 32 and the expenditures under sections 35 and 36(1)(ix) (pertaining to the assessment year 2000-01 or earlier years) would be considered as had been given full effect to for the period covered under the period of deduction. Thus, unabsorbed depreciation allowances or unabsorbed capital expenditure on scientific research or family planning (pertaining to the assessment year 2000-01 or earlier years) are not allowed to be carried forward and set off against the income of assessment years following the period of deduction. However, this restriction is not applicable to losses in respect of other businesses—*Lason India (P.) Ltd. v. ITO* [2008] 301 ITR (AT) 306 (Chennai).
- The losses under section 72(1) or 74(1) or 74(3) (pertaining to the assessment year 2000-01 or earlier years) are not allowed to be carried forward in assessment years succeeding† the period of deduction. The deductions under section 80-IA or 80-IB shall also not be available to such undertakings after the expiry of tax holiday period.

However, there is no bar to adjust losses under sections 70 and 71. In other words, if loss is incurred by an undertaking which is otherwise eligible for deduction under section 10B, it can be set off under the provisions of sections 70 and 71 against other incomes of the taxpayer—*Sovika Infotek Ltd. v. ITO* [2008] 23 SOT 273 (Mum.).

- In the assessment year following period of deduction, the depreciation will be computed on the written down value of the asset as if the depreciation has actually been allowed in respect of each assessment year falling in the period of deduction.

†This restriction will apply only to post-tax holiday period and not to previous years within tax holiday period—*Enercon Wind Farms (Krishna) Ltd. v. CIT* [2008] 21 SOT 29 (Mum.).

105.6 Consequences in the case of amalgamation/merger - See para 104A.3.

105.7 Option available to new undertaking not to claim deduction under section 10B - Section 10B will be applicable to all eligible undertakings unless the assessee opts out of scheme by making a declaration under sub-section (8) before the due date of furnishing return of income [see para 104.6 for detailed discussion].

Deduction in respect of export of artistic hand-made wooden articles [Sec. 10BA]

106. Section 10BA is applicable for the assessment years 2004-05 to 2009-10. Deduction under section 10BA is not available from the assessment year 2010-11 onwards.

106.1 Conditions - To claim deduction under section 10BA, an undertaking should satisfy the following conditions—

106.1-1 IT SHOULD MANUFACTURE ELIGIBLE ARTICLES OR THINGS - The undertaking should manufacture or produce eligible articles or things without the use of imported raw material. "Eligible articles or things" means all hand-made articles or things, which are of artistic value and which requires the use of wood as the main raw material.

106.1-2 IT SHOULD BE A NEW UNDERTAKING - The undertaking is not formed by splitting up, or the reconstruction, of a business already in existence.

• **Exception** - The aforesaid condition of "new undertaking" is not applicable where the business is re-established, reconstructed or revived by the same assessee, by satisfying the conditions given in section 33B.

106.1-3 IT SHOULD NOT BE FORMED BY TRANSFER OF MACHINERY OR PLANT PREVIOUSLY USED FOR ANY PURPOSE - It is not be formed by a transfer to a new business of machinery and plant previously used for any purpose. This rule is, however, not applicable in a few cases.

106.1-4 90 PER CENT SALE SHOULD BE IN OVERSEAS MARKET - 90 per cent or more of the sale of the undertaking during the previous year should be by way of export of eligible articles or things. The 90 per cent minimum requirement must be satisfied with reference to the total sales (export as well as non-export) of the 'undertaking' and not with reference to the export sales alone. The requirement applies to the 'undertaking' and not to the 'assessee'. However, export shall not include any transaction by way of sale or otherwise, in a shop, emporium or any other establishment situated in India, not involving clearance at any customs station as defined in the Customs Act, 1962.

106.1-5 EMPLOYMENT OF 20 OR MORE WORKERS - It should employ 20 or more workers during the previous year in the process of manufacture or production.

106.1-6 THERE MUST BE REPATRIATION OF SALE PROCEEDS INTO INDIA - Sale proceeds of the eligible goods or things exported out of India must be received in, or brought into, India by the assessee in convertible foreign exchange during the previous year or within a period of six months from the end of the relevant previous year. For instance, for the assessment year 2009-10, the repatriation of the sale proceeds into India must be completed on or before September 30, 2009.

• **Extension of time limit** - The approval for extension of the time-limit will be taken from the Reserve Bank of India or such other competent authority as is authorised under any law for the time being in force for regulating payments and dealings in foreign exchange.

106.1-7 AUDIT - Deduction under section 10BA is not available unless the assessee furnishes* auditor's report in Form No. 56H along with the return of income.

106.1-8 DEDUCTION UNDER SECTION 10A/10B IS NOT TAKEN - Where in computing the total income of the undertaking for any assessment year, a deduction is claimed under section 10A or 10B, the undertaking shall not be eligible for claiming any deduction under section 10BA.

106.1-9 DEDUCTION SHOULD BE CLAIMED IN THE RETURN OF INCOME - Deduction under section 10BA is not available unless it is claimed in the return of income. In other words, if the assessee fails to make a claim in his return of income of this deduction, the same will not be allowed (applicable from the assessment year 2003-04 onwards).

106.2 Amount of deduction - If the aforesaid conditions are satisfied then deduction is available on the basis of amount computed as follows :

Profit of the business of the undertaking × export turnover in respect of eligible articles or things / total turnover of the business carried on by the undertaking.

The following points should be noted :

1. Export turnover for this purpose means the consideration in respect of export by the undertaking of eligible articles or things which is received in, or brought into, India by the assessee in convertible foreign exchange within the time-limit or within the extended time-limit as stated above. It does not include freight, telecommunication charges or insurance attributable to the delivery of the articles or things outside India.

*It is not possible to attach any report with new income-tax return forms. The assessee should himself retain the report. It may be furnished in original whenever the Assessing Officer wants to examine it in assessment proceedings or otherwise.

2. The aforesaid method of *pro rata* determination must be followed even in those cases where the assessee has export business of eligible articles or things along with other lines of business and separate books of account are maintained for determining profits of export business.

3. The aforesaid profit is deductible for six assessment years, *i.e.* assessment years 2004-05 to 2009-10.

4. Where a deduction is allowed under section 10BA in computing the total income of the assessee, no deduction shall be allowed under any other section in respect of its export profits.

5. See para 104.5 for power of the Income-tax Department to recompute profit.

6. Deduction under section 10BA is not controlled by section 80AB, as deduction under section 10BA is not a deduction under Chapter VI-A—*Enercon Wind Farms (Krishna) Ltd. v. CIT* [2008] 21 SOT 29 (Mum.).

Deductions from total income [Secs. 80C to 80U]

107. The deductions specified in sections 80C to 80U are allowed from the gross total income in order to arrive at the net income. The aggregate amount of the deductions under these sections cannot, however, exceed the gross total income (after excluding short-term capital gain taxable under section 111A, any long-term capital gain and incomes referred to in sections 115A, 115AB, 115AC, 115AD and 115D) of the assessee. Moreover, in view of section 80AB, deduction under sections 80HH to 80U is admissible in respect of net income computed under the provisions of the Act (*i.e.*, income arrived at after deducting permissible deductions and adjusting current or brought forward losses). Moreover, deduction under sections 80-IA, 80-IAB, 80-IB, 80-IC and 80-ID is not available if return of income is not submitted on or before the due date.

- Deduction in respect of profits and gains shall not be allowed under any provisions of section 10A or section 10AA or section 10B or section 10BA or under sections 80H to 80RRB, if a deduction in respect of same amount under any of the aforesaid sections has been allowed in the same assessment year. The aggregate deductions under these provisions shall not exceed the profits and gains of the undertaking or unit or enterprise or eligible business, as the case may be. No deductions under the above provisions shall be allowed if the deduction has not been claimed in the return of income (applicable from the assessment year 2003-04).

- For the purpose of claiming deduction under section 35AD or under Chapter VI-A (*i.e.*, sections 80C to 80U), the transfer price of goods and services between the undertaking (*i.e.*, unit or enterprise eligible for these deductions) and any other undertaking or unit or enterprise or business of the assessee shall be determined at the market value (or arm's length price, with effect from the assessment year 2013-14) of such goods or services as on the date of transfer. This provision will be applicable with effect from April 1, 2009 and will, accordingly, apply to all cases where the proceedings are pending before any authority on or after such date.

- Where a deduction under any provision of sections 80HH to 80RRB is claimed and allowed in respect of profits of any of the specified business referred to in section 35AD(8)(c) for any assessment year, no deduction shall be allowed under the provisions of section 35AD in relation to such specified business for the same or any other assessment year (applicable from the assessment year 2011-12).

107.1 Deduction in respect of life insurance premia, deferred annuity, contributions to provident fund, subscription to certain equity shares or debentures, etc. [Sec. 80C, applicable from the assessment year 2006-07] - Section 80C provides deduction in respect of specified qualifying amounts paid or deposited by the assessee in the previous year.

107.1-1 SALIENT FEATURES OF SECTION 80C - The following are the main provisions of section 80C—

- Under section 80C, deduction is available from gross total income.
- Deduction under section 80C is available only to an individual or a Hindu undivided family.
- Deduction is available on the basis of specified qualifying investments/contributions/deposits/payments (hereinafter referred to as "gross qualifying amount") made by the taxpayer during the previous year.
- The gross qualifying amount would be allowed as deduction irrespective of the fact whether (or not) such amount is paid or deposited by the taxpayer out of his income chargeable to tax.
- The maximum amount deductible under section 80C is Rs. 1,00,000 (**Rs. 1,50,000 from the assessment year 2015-16**). Moreover, the aggregate amount of deduction—
 - a. under sections 80C, 80CCC, 80CCD(1) [*i.e.*, contribution by an employee (or any other individual) towards notified pension scheme] and 80CCD(2) [*i.e.*, employer's contribution towards notified pension scheme] cannot exceed Rs. 1,00,000 (applicable for the assessment years 2006-07 to 2011-12); and

b. under sections 80C, 80CCC and 80CCD(1)* [*i.e.*, contribution by an employee (or any other individual) towards notified pension scheme (NPS)] cannot exceed Rs. 1,00,000 (for the assessment years 2012-13 to 2014-15) or **Rs. 1,50,000 (from the assessment year 2015-16)**.

107.1-2 COMPUTATION OF DEDUCTION UNDER SECTION 80C - The deduction is calculated as per the following steps—

Step 1 - Gross qualifying amount [*see* para 107.1-2a]

Step 2 - Amount of deduction [*see* para 107.1-2b]

107.1-2a STEP 1 - GROSS QUALIFYING AMOUNT - Gross qualifying amount is the aggregate of the following :

<i>Nature of payment</i>
1. <i>Life insurance premium</i> (including payment made by Government employees to the Central Government Employees' insurance scheme and payment made by a person under children's deferred endowment assurance policy) [<i>see</i> Note 1]
2. Payment in respect of <i>non-commutable deferred annuity</i> [<i>see</i> Note 2]
3. Any sum deducted from salary payable to a Government employee for the purpose of securing him a <i>deferred annuity</i> (subject to a maximum of 20 per cent of salary) [<i>see</i> Note 3]
4. Contribution (not being repayment of loan) towards <i>statutory provident fund and recognized provident fund</i>
5. Contribution (not being repayment of loan) towards 15 year public provident fund [<i>see</i> Notes 4, 6 and 11]
6. Contribution towards an approved <i>superannuation fund</i>
7. Subscription to <i>National Savings Certificates</i> (VIII Issue and IX Issue) [<i>see</i> Note 7]
8. Contribution for participating in the unit-linked insurance plan (<i>ULIP</i>) of Unit Trust of India [<i>see</i> Note 5]
9. Contribution for participating in the unit-linked insurance plan (<i>ULIP</i>) of LIC Mutual Fund (<i>i.e.</i> , formerly known as Dhanraksha plan of LIC Mutual Fund) [<i>see</i> Note 5]
10. Payment for <i>notified annuity plan</i> of LIC (<i>i.e.</i> , Jeevan Dhara and Jeevan Akshay) or any other insurer (<i>i.e.</i> , Immediate Annuity Plan of ICICI Prudential Life Insurance Company, Tata AIG Easy Retire Annuity Plan of Tata AIG Life Insurance Company)
11. Subscription towards <i>notified units of Mutual Fund</i> or UTI
12. Contribution to <i>notified pension fund</i> set up by Mutual Fund or UTI (<i>i.e.</i> , Retirement Benefit Unit Scheme of UTI and Kothari Pioneer Pension Plan of Kothari Mutual Fund)
13. Any sum paid (including accrued interest) as subscription to <i>Home Loan Account Scheme</i> of the National Housing Bank or contribution to any notified deposit scheme pension fund set up by the National Housing Bank†.
14. Any sum paid as subscription to any scheme of—
a. public sector company engaged in providing long-term finance for purchase/construction of residential houses in India (<i>i.e.</i> , public deposit scheme of HUDCO);
b. housing board constituted in India for the purpose of planning, development or improvement of cities/towns
15. Any sum paid as <i>tuition fees</i> (not including any payment towards development fees/donation/payment of similar nature) whether at the time of admission or otherwise to any university/college/educational institution in India for full time education of any two children of an individual [<i>see</i> Note 10]
16. Any instalment or part payment towards the cost of purchase/construction of a residential property to a housing board or co-operative society (or repayment of housing loan taken from Government, bank, cooperative bank, LIC, National Housing Bank, assessee's employer where such employer is public company/public sector company/university/co-operative society) [<i>see</i> Note 9]
17. Amount invested in <i>approved debentures</i> of, and <i>equity shares</i> in, a public company engaged in infrastructure including power sector or units of a mutual fund proceeds of which are utilised for the developing, maintaining, etc., of a new infrastructure facility
18. Amount deposited in a fixed deposit for 5 years or more with a scheduled bank in accordance with a scheme framed and notified by the Central Government (applicable from the assessment year 2007-08) (it shall be a minimum of Rs. 100 or multiples thereof).
19. Subscription to any notified bonds of National Bank for Agriculture and Rural Development (<i>i.e.</i> , the NABARD Rural Development Bonds of NABARD) (applicable from the assessment year 2008-09).
20. Amount deposited under Senior Citizens Saving Scheme (applicable from the assessment year 2008-09) [Note 11].

*From the assessment year 2012-13, employer's contribution towards NPS is outside the monetary ceiling of Rs. 1,00,000 or **Rs. 1,50,000**.

†Notified scheme for this purpose is the National Housing Bank (Tax Saving) Term Deposit Scheme, 2008.

21. Amount deposited in Five Year Time Deposit Scheme in post office (applicable from the assessment year 2008-09) [Note 11].

Notes:

1. In the case of an individual policy should be taken on his own life, life of the spouse or any child (child may be dependent/independent, male/female, minor/major or married/unmarried). In the case of a Hindu undivided family, policy may be taken on the life of any member of the family. Insurance premium cannot exceed the maximum ceiling given below—

	<i>Policy on the life of a person with disability or severe disability or on the life of a person suffering from disease or ailment as given in section 80DDB</i>	<i>Policy on the life any other person</i>
- If policy is issued before April 1, 2012	20% of sum assured*	20% of sum assured*
- If policy is issued during 2012-13	10% of sum assured**	10% of sum assured**
- If policy is issued on or after April 1, 2013	15% of sum assured**	10% of sum assured**

2. Annuity plan should be taken in the name of the individual, his wife/her husband or any child of such individual.

3. It should be for the benefit of the individual, his wife or children.

4. According to the Public Provident Fund Scheme, an individual can open public provident fund account in his own name or in the name of minor of whom he is guardian. However, according to the Income-tax Act, to get the benefit of deduction under section 80C, amount deposited by an individual in his own account or in the account of his/her spouse or in the account of any child (in the case of HUF-assessee in the account of any member of the family) is eligible for deduction.

5. In the case of an individual, ULIP should be taken on his own life, life of the spouse or any child (child may be dependent/independent, male/female, minor/major or married/unmarried). In the case of a Hindu undivided family, ULIP may be taken on the life of any member of the family.

6. There is no maximum ceiling under the Income-tax Act. However, under the public provident fund scheme, the maximum contribution is Rs. 1,00,000 (it is likely to be increased to Rs. 1,50,000).

7. Accrued interest (which is deemed as reinvested) is also qualified for deduction for any year (except for the last year).

8. While an individual can make payment in any of the above referred investments, an HUF cannot invest in points 2, 3, 4, 5, 6, 7, 12 and 14 mentioned above.

9. The following payment made towards the *cost of purchase/construction of a new residential house property* is qualified for the purpose of section 80C :

- a. any instalment or part payment of the amount due under any self-financing or other scheme of any development authority, housing board or other authority engaged in the construction and sale of house property on ownership basis ; or
- b. any instalment or part payment of the amount due to any company or co-operative society of which the assessee is a shareholder or member† towards the cost of the house property allotted to him (it is not applicable if the assessee is not a shareholder or member of the company/co-operative society which provides house to the assessee); or
- c. repayment of the amount borrowed by the assessee from —
 - i. the Central Government or any State Government, or
 - ii. any bank, including a co-operative bank, or
 - iii. the Life Insurance Corporation of India, or
 - iv. the National Housing Bank, or
 - v. any public company formed and registered in India with the main object of carrying on the business of providing long-term finance for construction or purchase of houses in India for residential purposes which is eligible for deduction under section 36(1)(viii), or
 - vi. any company in which the public are substantially interested or any co-operative society, where such company or co-operative society is engaged in the business of financing the construction of houses, or

*Sum assured does not include any premium agreed to be returned and/or any benefit by way of bonus.

**Sum assured means minimum amount assured under the policy without including any premium agreed to be returned and/or any benefit by way of bonus.

†To claim benefit under section 80C of instalment paid or part-payment made towards cost of house property allotted to assessee, he must be a member/shareholder of company or co-operative society when instalment or part-payment is made—*Sandeep S. Shah v. ITO* [2002] 123 Taxman 696 (Mad.).

- vii. the assessee's employer where such employer is an authority or a board or a corporation or any other body established or constituted under a Central or State Act, or
- viii. the assessee's employer where such employer is a public company or public sector company, or a university established by law or a college affiliated to such university or local authority or co-operative society ;
- d. stamp duty, registration fee and other expenses for the purpose of transfer of such house property to the assessee.

The following payments are not qualified for the purpose of section 80C :

- a. the admission fee, cost of the share and initial deposit which a shareholder of a company or a member of a co-operative society has to pay for becoming such shareholder or member ; or
- b. the cost of any addition or alteration to, or renovation or repair of, the house property which is carried out after the issue of the completion certificate in respect of the house property by the authority competent to issue such certificate or after the house property (or any part thereof) has either been occupied by the assessee or any other person on his behalf or been let out ; or
- c. any expenditure in respect of which deduction is allowable under the provisions of section 24.

10. Full-time education includes any educational course offered by any university, college, school or other educational institution to a student who is enrolled full-time for the said course. Full-time education includes even play-school activities, pre-nursery and nursery classes. The amount allowable as tuition fees shall include any payment of fee to any university, college, school or other educational institution in India except the amount representing payment in the nature of development fees or donation or capitation fees or payment of similar nature—Circular No. 8/2012, dated October 5, 2012.

11. When a deposit is made in the Public Provident Fund account, Senior Citizen Saving Scheme and Time Deposit Scheme in Post Office by means of a cheque/draft, the date of encashment of the cheque is treated as date of deposit.

107.1-2a¹ *Other points regarding computation of gross qualifying amount* - The following points are also relevant while calculating the gross qualifying amount :

• *Investment/deposits are qualified on payment basis* - The aforesaid sums qualify, for the purpose of this section, on "payment" basis. Payments made under the aforesaid heads during the previous year are qualified for the purpose of this section, regardless of the fact whether the payments relate to the previous year or years preceding or ensuing the previous year.

• *Minimum period of holding in some cases* - In respect of the investments/deposits/contributions eligible for deduction under section 80C, in some cases the law provides a minimum period of holding. Such cases are given below—

<i>Nature of investments/deposits</i>	<i>Number of item as per table given in para 107.1-1a</i>	<i>Minimum period of holding</i>
Unit-linked insurance plan (ULIP)	8 and 9	5 years
Life insurance premium	1	2 years
Cost of purchase/construction of a residential house property including repayment of loan	16	5 years
Deposit under Senior Citizen Saving Scheme	20	5 years
Time deposit in Post Office	21	5 years

Where a member participating in Unit-linked insurance plan, terminates his participation before making contribution for 5 years, then following consequences should be noted—

<i>Whether any deduction would be available in respect of any contribution towards the above plan in the previous year in which the taxpayer terminates participation in the above plan before completing 5 years</i>	Any contribution made towards the above plan in the said previous year will not be qualified for deduction under section 80C.
<i>What will be the tax treatment in respect of deduction already taken in the preceding years</i>	The quantum of deduction already taken in the preceding years would be deemed as income of the taxpayer in the year in which contribution to the plan is terminated.

A similar rule is applicable in respect of termination of life insurance policy before 2 years and transfer of residential house property before 5 years. In the case of withdrawal before 5 years by the depositor during his lifetime from amount deposited under Senior Citizen Saving Scheme or time deposit in Post Office, the amount withdrawn (excluding interest which has already been taxed in earlier years) will be taxable in the year of withdrawal.

107.1-2b AMOUNT OF DEDUCTION - Gross qualifying amount is the figure derived in para 107.1-2. However, amount deduction under section 80C is computed as under:

- Gross qualifying amount; or

- Rs. 1,00,000 (**Rs. 1,50,000 from the assessment year 2015-16**),

whichever is lower. It may be noted that the aggregate amount of deduction under sections 80C, 80CCC and 80CCD(1) cannot exceed Rs. 1,00,000 (**Rs. 1,50,000 from the assessment year 2015-16**).

107.1-2c FURTHER DEDUCTION ON ACCRUED INTEREST IN RESPECT OF INVESTMENT IN NATIONAL SAVING CERTIFICATES (VIII ISSUE AND IX ISSUE) - HOW TO CLAIM - The interest as specified in the Table below shall accrue to the holder or holders of the certificate at the end of each year and the interest so accruing at the end of each year (except for the last year) shall be deemed to have been re-invested on behalf of the holder and aggregated with the amount of face value of the certificate.

NSC VIII Issue

Amount of interest (Rs.) accruing on certificates of Rs. 100 denomination

When NSC was purchased [®]	After March 31, 1989 but before January 1, 1999	After December 31, 1998 but before January 15, 2000	After January 14, 2000 but before March 1, 2001	After February 28, 2001 but before March 1, 2002	On or after March 1, 2002 but before March 1, 2003	On or after March 1, 2003 but before December 1, 2011	On or after December 1, 2011 but before April 1, 2012	During 2012-13	During 2013-14 and 2014-15
The year for which interest accrues									
First year	12.40	11.83	11.30	9.72	9.20	8.16	8.58	8.78	8.68
Second year	13.90	13.23	12.58	10.67	10.05	8.83	9.31	9.56	9.43
Third year	15.60	14.80	14.00	11.71	10.97	9.55	10.11	10.40	10.25
Fourth year	17.50	16.54	15.58	12.85	11.98	10.33	10.98	11.31	11.14
Fifth year	19.70	18.51	17.35	14.10	13.09	11.17	11.92	12.30	12.11
Sixth year	22.40	20.69	19.31	15.47	14.29	12.08	NA	NA	NA

NSC IX Issue

Amount of interest (Rs.) accruing on certificate of Rs. 100 denomination

Year for which interest accrues	When investment is made			Year for which interest accrues	When investment is made		
	Before April 1, 2012	During 2012-13	During 2013-14 and 2014-15		Before April 1, 2012	During 2012-13	During 2013-14 and 2014-15
First year	8.89	9.10	8.99	Sixth year	13.61	14.06	13.83
Second year	9.68	9.93	9.80	Seventh year	14.82	15.34	15.08
Third year	10.54	10.83	10.68	Eighth year	16.13	16.74	16.43
Fourth year	11.48	11.81	11.64	Ninth year	17.57	18.26	17.91
Fifth year	12.50	12.89	12.69	Tenth year	19.13	19.92	19.52

Note : The amount of interest accruing on a certificate of any other denomination shall be proportionate to the amount specified in the Table above.

Interest is chargeable to tax on the basis of annual accrual specified above. Further, the amount of interest re-invested (for all years except last year) satisfies the test of having been paid out of income chargeable to tax and the same is entitled for deduction under section 80C.

107.1-E1 X, whose annual salary is Rs. 5,45,000, purchased Rs. 30,000 National Savings Certificates (VIII Issue) on December 10, 2007. He annually deposits Rs. 10,000 in National Children's Fund. Determine the amount of tax payable for the assessment years 2008-09 to 2014-15, on assumption that he does not intend to make any other investment up to the financial year 2013-14.

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ASSESSMENT YEARS

	2008-09 Rs.	2009-10 Rs.	2010-11 Rs.	2011-12 Rs.	2012-13 Rs.	2013-14 Rs.	2014-15 Rs.
Salary income	5,45,000	5,45,000	5,45,000	5,45,000	5,45,000	5,45,000	5,45,000
Interest accrued on NSC Issue	—	2,448	2,649	2,865	3,099	3,351	3,624
Gross total income	5,45,000	5,47,448	5,47,649	5,47,865	5,48,099	5,48,351	5,48,624
Less: Deductions Under section 80C	30,000 ¹	2,448 ²	2,649 ³	2,865 ⁴	3,099 ⁵	3,351 ⁶	Nil ⁷
Under section 80G	5,000	5,000	5,000	5,000	5,000	5,000	10,000
Net income	5,10,000	5,40,000	5,40,000	5,40,000	5,40,000	5,40,000	5,38,620
Tax	1,02,000	67,000	66,000	42,000	40,000	38,000	37,724
Less: Rebate under section 88	Nil	Nil	Nil	Nil	Nil	Nil	Nil
Balance	1,02,000	67,000	66,000	42,000	40,000	38,000	37,724
Add: Surcharge	-	-	-	-	-	-	-
Tax and surcharge	1,02,000	67,000	66,000	42,000	40,000	38,000	37,724
Add: Education cess	2,040	1,340	1,320	840	800	760	754
Add: Secondary and higher education cess	1,020	670	660	420	400	380	377
Tax payable	1,05,060	69,010	67,980	43,260	41,200	39,140	38,860

1. Rs. 30,000 is deductible under section 80C.

2. Rs. 2,448 is deductible under section 80C.

3. Rs. 2,649 is deductible under section 80C.

4. Rs. 2,865 is deductible under section 80C.

5. Rs. 3,099 is allowable as deduction under section 80C.

6. Rs. 3,351 is allowable as deduction under section 80C.

7. Since interest of sixth year (due on December 10, 2013) is paid at the time of maturity of bonds (*i.e.*, on December 10, 2013) and is not reinvested in NSC VIII Issue, the same is not eligible for deduction under section 80C.

107.1-E2 Income of a resident is Rs. 12,50,000 (inclusive of interest on Government securities of Rs. 15,000). He invests Rs. 1 lakh in schemes and deposits qualified for deduction under section 80C. He is eligible for deduction of Rs. 30,000 under section 80CCC. He pays Rs. 20,000 on account of mediclaim insurance premium on his own life and life of Mrs. X. Besides, he pays Rs. 17,000 as mediclaim insurance premium on the life of his mother (88 years) who is not dependent on him. Find out the tax liability for the assessment year 2014-15 if the taxpayer is (a) a senior citizen (64 years), (b) a resident woman (58 years) or (c) any other individual.

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	Case (a) Rs.	Case (b) Rs.	Case (c) Rs.
Gross total income	12,50,000	12,50,000	12,50,000
Less: Deductions			
Under section 80C	1,00,000	1,00,000	1,00,000
Under section 80CCC	-	-	-
Under section 80D	37,000	32,000	32,000
Net income	11,13,000	11,18,000	11,18,000
Income-tax*	1,58,900	1,65,400	1,65,400
Add: Surcharge (applicable only if net income exceeds Rs. 1 crore)	-	-	-
Income-tax and surcharge	1,58,900	1,65,400	1,65,400
Add: Education cess	3,178	3,308	3,308
Add: Secondary and higher education cess	1,589	1,654	1,654
Tax liability (rounded off)	1,63,670	1,70,360	1,70,360

*Rebate under section 87A is not available as net income exceeds Rs. 5,00,000.

107.1-E3 X (62 yrs.) is a salaried employee. His basic salary is Rs. 40,000 per month. He gets one month salary as bonus. He has been provided a rent-free unfurnished house which is owned by the employer company at the place of his posting, i.e., Chennai. He gets bank FD interest of Rs. 17,10,000. He makes the following investments/deposits every year—

	Rs.
Life insurance premium on his own life taken on April 6, 2012 (sum assured: Rs. 80,000)	9,000
Notified equity linked saving scheme of UTI	12,000
Repayment of loan taken on July 1, 2001 for purchasing a house property (which is self-occupied by his family at Pune)	27,000
Payment of interest on the above loan	1,60,000
Tuition fees of two children (Rs. 14,000 + Rs. 26,000)	40,000
Notified bonds of infrastructure company (for the purpose of section 80C)	3,000
Deposit in home loan account scheme of NHB	9,000
Mediclaime insurance premium	16,000
Pension fund of LIC qualified for deduction under section 80CCC	14,000
On March 10, 2012, he purchases Rs. 10,000 National Saving Certificate VIII issue. No other investment is made by X. Find out the net income and tax liability for the assessment year 2014-15.	

	Rs.
Basic salary	4,80,000
Bonus	40,000
Rent-free unfurnished house	78,000
Gross salary	5,98,000
Less: Standard deduction	-
Income from salary	5,98,000
Income from house property	(-)1,50,000
Bank interest	17,10,000
Interest on NSC (VIII issue) purchased on March 10, 2012	931
Gross total income	21,58,931
Less : Deductions	
Under section 80C [see Note]	99,931
Under section 80CCC	69
Under section 80D	16,000
Net income	20,42,930
Tax on net income*	4,37,879
Add : Education cess	8,758
Add: Secondary and higher education cess	4,379
Tax liability	4,51,020

Note - Gross qualifying amount for the purpose of section 80C is calculated as follows—

Life insurance premium (maximum 10% of Rs. 80,000)	8,000
Notified equity linked saving scheme of UTI	12,000
Repayment of loan taken for purchasing a house property	27,000
Tuition fees of two children (Rs. 14,000 + Rs. 26,000)	40,000
Home loan account scheme	9,000
Interest accrued on NSC (VIII issue) (9.31% of Rs. 10,000)	931
Notified bonds of infrastructure company	3,000
Gross qualifying amount	99,931
Amount deductible under section 80C (100% of gross qualifying amount subject to maximum of Rs. 1,00,000)	99,931

107.1A Deduction in respect of National Savings Scheme [Sec. 80CCA, applicable for the assessment years 1988-89 to 1992-93] - Deduction shall be allowed in the case of a taxpayer being an individual,

*Rebate under section 87A is not available as net income exceeds Rs. 5,00,000.

a Hindu undivided family in relation to the deposits made under a notified scheme (*i.e.*, the National Savings Scheme) or notified annuity scheme of LIC (*i.e.*, Jeevan Dhara and Jeevan Akshay). The deduction is available in respect of the whole of the amount deposited as does not exceed—

- Rs. 40,000 for the assessment years 1991-92 and 1992-93.
- Rs. 30,000 for the assessment years 1989-90 and 1990-91.
- Rs. 20,000 for the assessment year 1988-89.

• Consequence of the above provisions and other related issues as applicable to the assessment year 2014-15 are explained with the help of 107.1A-E1 and 107.1A-E2 given below—

107.1A-E1 On May 6, 2013, X withdraws Rs. 20,000 from the National Savings Scheme, 1987 which includes Rs. 6,000 as interest. Find out the amount chargeable to tax.

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Rs. 20,000, being the amount withdrawn from the National Savings Scheme, 1987 is taxable under the head "Income from other sources" for the assessment year 2014-15.

107.1A-E2 During 2013-14 X gets the following payments—

	Date	Principal Rs.	Interest Rs.	Bonus Rs.	Total Rs.
National Savings Scheme, 1987	July 1, 2013	30,000	5,000	-	35,000
National Savings Scheme, 1992	May 1, 2013	65,000	15,000	-	80,000
Jeevan Dhara	March 1, 2014	10,000	-	2,000	12,000

Ascertain the amount chargeable to tax for the assessment year 2014-15 assuming that on transfer of a short-term capital asset on April 1, 2013 he gets an income of Rs. 6,00,000.

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	Rs.	Rs.
Short-term capital gain		6,00,000
Income from other sources		
- National Savings Scheme, 1987	35,000	
- Interest on National Savings Scheme, 1992	15,000	
- Jeevan Dhara	<u>12,000</u>	<u>62,000</u>
Gross total income		6,62,000
Less: Deduction		<u>Nil</u>
Net income		<u>6,62,000</u>

Notes—

1. Contribution to the National Savings Scheme, 1992 was not deductible under section 80CCA. Out of the amount withdrawn from the National Savings Scheme, 1992, only interest is chargeable to tax.

2. Contribution to National Savings Scheme, 1987 was deductible under section 80CCA. If the amount is withdrawn from National Savings Scheme, 1987, then the entire amount (including interest) is taxable without any deduction.

107.2 Deduction in respect of investment made under Equity Linked Savings Scheme [Sec. 80CCB applicable for the assessment years 1991-92 and 1992-93] - Section 80CCB relating to deduction in respect of investment made in accordance with the notified Equity Linked Savings Scheme was applicable for the assessment years 1991-92 and 1992-93.

• Consequences of the above provisions and other related issues as applicable to the assessment year 2014-15 are explained with the help of 107.2-E1 given below—

107.2-E1 On March 10, 1992 X purchased 1,500 MEP92 units of Rs. 10 of UTI (being a notified Equity Linked Savings Scheme for section 80CCB) and claimed a deduction of Rs.10,000 under section 80CCB for the assessment year 1992-93.

On March 3, 1994 X purchased 1,700 units of MEP94 units of Rs.10 of UTI (being a notified Equity Linked Savings Scheme for section 88) and claimed a tax rebate of Rs. 2,000 (*i.e.*, 20 per cent of Rs.10,000) under section 88 for the assessment year 1994-95.

On June 6, 2013 X transfers MEP92 and MEP94 at the rate of Rs. 50 and Rs. 40 respectively through a broker of the Bombay Stock Exchange (securities transaction tax is applicable). Find out the net income of X for the assessment year 2014-15 assuming that the business income of X is Rs. 7,86,000.

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	Rs.	Rs.
Business income		7,86,000
Capital gains		
Sale proceeds of MEP92 (Rs. 50 × Rs. 1,500)	75,000	
Less: Indexed cost of acquisition [Rs. 10 × 1,500 × 939/199]	<u>70,779</u>	

	Rs.	Rs.
Capital gain (a)	4,221	
Sale proceeds of MEP94 (Rs. 40 × 1,700)	68,000	
Less: Indexed cost of acquisition (Rs. 10 × 1,700 × 939/244)	65,422	
Capital gain (b)	2,578	
Long-term capital gain [(a) + (b)]		(6,799)*
Income from other sources [Rs.10,000, being the amount of deduction under section 80CCB, will be taxable when units MEP92 are transferred]		10,000
Gross total income		7,96,000
Less: Deductions under sections 80CCC to 80U		Nil
Net income (rounded off)		7,96,000

107.2A Deduction in respect of contribution to pension fund [Sec. 80CCC] - Section 80CCC has been inserted with effect from the assessment year 1997-98. This section provides a deduction to an individual for any amount paid or deposited by him in any annuity plan of the Life Insurance Corporation of India or any other insurer for receiving pension from a fund referred to in section 10(23AAB). The deduction shall be restricted to Rs. 1,00,000 (Rs. 10,000 up to the assessment year 2006-07).

One should keep in view the following points :

1. Where after claiming deduction, the assessee or his nominee surrenders the annuity before the maturity date of such annuity, the surrender value shall be taxable in the hands of the assessee or his nominee, as the case may be, in the year of the receipt.
2. If deduction is claimed under section 80CCC, pension received will be taxable in the hands of the assessee or the nominee, as the case may be, in the year of the receipt.
3. Rebate (with reference to the amount paid under section 80CCC) will not be available under section 88 to persons to whom deduction under this section has been allowed.
4. The maximum amount deductible under section 80CCC is Rs. 1,00,000. Moreover, the aggregate amount of deduction—
 - a. under sections 80C, 80CCC, 80CCD(1) [i.e., contribution by an employee (or any other individual) towards notified pension scheme] and 80CCD(2) [i.e., employer's contribution towards notified pension scheme] cannot exceed Rs. 1,00,000 (applicable for the assessment years 2006-07 to 2011-12); and
 - b. under sections 80C, 80CCC and 80CCD(1)** [i.e., contribution by an employee (or any other individual) towards notified pension scheme] cannot exceed Rs. 1,00,000 (for the assessment years 2012-13 to 2014-15) or **Rs. 1,50,000 (from the assessment year 2015-16)**.

107.2B Deduction in respect of contribution to pension scheme (NPS) notified by Central Government [Sec. 80CCD] - A new pension scheme is applicable to new entrants to Government service.

● **Conditions** - Section 80CCD is applicable if the following conditions are satisfied—

1. The taxpayer is an individual.
2. He is employed by the Central Government (on or after January 1, 2004), or employed by any other person. He may be even a self-employed person.
3. He has in the previous year paid or deposited any amount in his account under a pension scheme notified by the Central Government (NPS).

● **Consequences if the above conditions are satisfied** - If the above conditions are satisfied, then the following consequences given by section 80CCD should be noted—

1. **Contribution towards NPS by employee (or any other individual assessee) [Sec. 80CCD(1)]** - Assessee's contribution to NPS is deductible under section 80CCD(1) in the year in which contribution is made. No deduction is available in respect of employee's contribution which is in excess of 10 per cent of the salary of the employee. Likewise, if contribution by a taxpayer (not being an employee) exceeds 10 per cent of his gross total income, the excess shall not be taken into consideration for the purpose of section 80CCD. **From the assessment year 2015-16, amount deductible under section 80CCD(1) cannot exceed Rs. 1,00,000.**

2. **Contribution towards NPS by employer [Sec. 80CCD(2)]** - Contribution by the employer to NPS is deductible under section 80CCD(2) in the hands of the concerned employee in the year in which contribution is made. However, no deduction is available in respect of employer's contribution which is in excess of 10 per cent of the salary of the employee.

*Exempt under section 10(38).

**From the assessment year 2012-13, employer's contribution towards NPS is outside the monetary ceiling of Rs. 1,00,000.

3. *Payments to be received from NPS* - The amounts standing to the credit of the assessee in NPS, for which a deduction has already been claimed by him, and accretions to such account, shall be taxed as income in the year in which such amounts are received by the assessee (or his nominee) on closure of the account or his opting out of the said scheme or on receipt of pension from the annuity plan. If, however, the amount of pension received from the pension account is used for purchasing an annuity plan in the same previous year, then it will be exempt from tax.

4. *Meaning of "salary"* - "Salary" for the purpose of points 1 and 2 (*supra*) includes dearness allowance, if the terms of employment so provide, but excludes all other allowances and perquisites.

5. *Cumulative monetary ceiling* - The aggregate amount of deduction—

- a. under sections 80C, 80CCC, 80CCD(1) [*i.e.*, contribution by an employee (or any other individual) towards NPS and 80CCD(2) [*i.e.*, employer's contribution towards NPS] cannot exceed Rs. 1,00,000 (applicable for the assessment years 2006-07 to 2011-12); and
- b. under sections 80C, 80CCC and 80CCD(1)* [*i.e.*, contribution by an employee (or any other individual) towards NPS] cannot exceed Rs. 1,00,000 (for the assessment years 2012-13 to 2014-15) or **Rs. 1,50,000 (from the assessment year 2015-16)**.

107.2B-E1 Consider the following cases for the assessment year 2014-15. Age of the taxpayer is 28 years.

Situation 1 - X is employed by the Central Government since 2006. For the previous year 2013-14, his basic salary is Rs. 5,00,000 per annum. Besides, he gets dearness allowance of Rs. 50,000 per annum and telephone allowance of Rs. 60,000 per annum. His income of other sources is Rs. 2,00,000. The Central Government contributes 13 per cent of salary (including dearness allowance) towards NPS. The contribution of X towards NPS is 15 per cent of salary. Besides, X deposits Rs. 70,000 in public provident fund, deposits Rs. 5,000 in notified (section 80CCC) annuity plan of LIC, invests Rs. 20,000 in long-term notified infrastructure bonds for the purpose of section 80CCF and pays medi-claim insurance premium of Rs. 17,000 (policy covers medical benefits for X and Mrs. X).

Situation 2 - X in the aforesaid case is employed by a private sector company and the employer has opted for NPS.

Situation 3 - X in the aforesaid case is employed by a private sector company and the employer has recognized provident fund. Contribution given in *Situation 1* is towards recognized provident fund.

Situation 4 - X is a self-employed person. His business income is Rs. 6,10,000 and income from other sources is Rs. 2,00,000. He annually contributes Rs. 90,000 towards NPS. Besides, X deposits Rs. 70,000 in public provident fund, deposits Rs. 5,000 in notified (section 80CCC) annuity plan of LIC, invests Rs. 20,000 in long-term notified infrastructure bonds for the purpose of section 80CCF and pays medi-claim insurance premium of Rs. 17,000 (policy covers medical benefits for X and Mrs. X).

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	<i>Situations 1 and 2 Rs.</i>	<i>Situation 3 Rs.</i>	<i>Situation 4 Rs.</i>
Basic salary and dearness allowance	5,50,000	5,50,000	<i>Nil</i>
Telephone allowance	60,000	60,000	<i>Nil</i>
Employer's contribution towards NPS (13% of Rs. 5,50,000)	71,500	<i>Nil</i>	<i>Nil</i>
Employer's contribution towards RPF (in excess of 12% of salary)	<i>Nil</i>	5,500	<i>Nil</i>
Salary income	6,81,500	6,15,500	<i>Nil</i>
Business income	<i>Nil</i>	<i>Nil</i>	6,10,000
Income from other sources	2,00,000	2,00,000	2,00,000
Gross total income (GTI)	8,81,500	8,15,500	8,10,000
<i>Less: Deductions</i>			
Under section 80C (PPF and contribution towards recognized provident fund subject to a maximum of Rs. 1,00,000) (a)	(70,000)	(1,00,000)	(70,000)
Under section 80CCC (annuity plan of LIC) (b)	(5,000)	(5,000)	(5,000)
Under section 80CCD(1) [contribution of X towards NPS, subject to a maximum of 10% of salary in the case of an employee or 10% of GTI in the case of a person other than employee] (c)	(55,000)	<i>Nil</i>	(81,000)
Under section 80CCD(2) [contribution by employer towards NPS, subject to a maximum of 10% of salary] (d)	(55,000)	<i>Nil</i>	<i>Nil</i>

*From the assessment year 2012-13, employer's contribution towards NPS is outside the monetary ceiling of Rs. 1,00,000.

	Situations 1 and 2 Rs.	Situation 3 Rs.	Situation 4 Rs.
Maximum deductible amount [<i>i.e.</i> , (a) + (b) + (c), subject to a maximum of Rs. 1,00,000 + (d)] (e)	1,55,000*	1,00,000	1,00,000
Under section 80CCF (notified infrastructure bonds) (not available for the assessment year 2013-14) (f)	Nil	Nil	Nil
Under section 80D (medi-claim insurance premium) (g)	15,000	15,000	15,000
Net income [GTI – (e) – (f) – (g)]	7,11,500	7,00,500	6,95,000

107.2C Deduction in respect of subscription to long-term infrastructure bonds [Sec. 80CCF, applicable for the assessment years 2011-12 and 2012-13] - Under section 80CCF, an individual or a Hindu undivided family can claim a deduction of the whole of the amount paid or deposited (up to a maximum of Rs. 20,000) during the previous year as subscription to notified long-term infrastructure bonds. Deduction under this section is available only for the assessment years 2011-12 and 2012-13. This deduction is over and above the existing overall limit of deduction on savings of up to Rs. 1,00,000 under sections 80C, 80CCC and 80CCD. No deduction under this section is available from the assessment year 2013-14.

107.2D Deduction in respect of investment made under Rajiv Gandhi Equity Saving Scheme [Sec. 80CCG, applicable from the assessment year 2013-14] - Section 80CCG has been inserted with effect from the assessment year 2013-14. Deduction under this section is available to a resident individual, if his gross total income does not exceed Rs. 10 lakh. (Rs. 12 lakh from the assessment year 2014-15).

- **Eligible investment to claim deduction** - Deduction under this section is available, if the assessee is a new retail investor as specified in the notified scheme and has acquired listed shares (or listed units from the assessment year 2014-15) in accordance with the notified scheme. The investment is locked-in for a period of 3 years from the date of acquisition in accordance with the above scheme. The assessee should also satisfy any other condition as may be prescribed.

- **Amount of deduction** - If the above conditions are satisfied, a deduction will be allowed under section 80CCG. The amount of deduction is 50 per cent of amount invested in equity shares (or listed units from the assessment year 2014-15). However, the amount of deduction under this section cannot be more than Rs. 25,000. If the assessee, after claiming the aforesaid deduction, fails to satisfy the above conditions, the deduction originally allowed shall be deemed to be the income of the assessee of the year in which default is committed.

- **Period of deduction** - If any deduction is claimed by a resident individual under section 80CCG for the assessment year 2013-14, he shall not be entitled for any deduction under this section for any subsequent year. In other words, for the assessment year 2013-14 deduction under section 80CCG is one time deduction and is available only in one assessment year to the extent of 50 per cent of amount invested during the previous year 2012-13 or Rs. 25,000 whichever is less. However, this provision has been amended from the assessment year 2014-15. The modified provision permits deduction for three consecutive assessment years, beginning with the assessment year relevant to the previous year in which the listed equity shares or listed units of equity oriented fund are first acquired.

- **Salient features of scheme** - Scheme is open to new retail investors. It is also open to those who have opened the demat account but have not made any transaction in stocks and/or in derivatives till the date of notification of this scheme.

Under the Scheme, those stocks listed under the BSE 100 or CNX 100, or those of Public Sector Undertakings which are Navratnas, Maharatnas and Mini-ratnas would be eligible. Follow-on Public Offers (FPOs) of the above companies would also be eligible under the scheme. IPOs of PSUs (annual turnover being not less than Rs. 4,000 crore for each of the immediate past three years) which are listed in the relevant financial year are also eligible. In addition, Exchange Traded Funds (ETFs) and Mutual Funds (MFs) that have above eligible securities as their underlyings and are listed and traded in the Stock Exchanges and settled through a depository mechanism have also been brought under the scheme.

The total lock-in period for investments under the scheme is 3 years. Out of 3 years, the first year is blanket lock-in period, commencing from the date of last purchase of securities under the scheme. The general principle under which trading is allowed from second year onwards is that whatever is the value of stocks/

*Up to the assessment year 2011-12, it was subject to a maximum of Rs. 1,00,000.

units sold by the investor from the scheme portfolio, securities of the above nature of at least the same value are credited back into the account subsequently. However, the investor is allowed to take benefits of the appreciation of his portfolio, provided its value, as on the previous day of trading, remains above the investment for which they have claimed income-tax benefit.

107.3 Deduction in respect of medical insurance premia [Sec. 80D]- The salient features of the provisions of section 80D are given below :

107.3-1 CONDITIONS - To get deduction under section 80D one should satisfy the following conditions—

1. The taxpayer is an individual (maybe resident/non-resident or Indian citizen/foreign citizen) or a Hindu undivided family (maybe resident or non-resident).

2. Mediclaim insurance is paid by the individual or Hindu undivided family. In the case of individual [as mentioned in para 107.3-2] payment can also be made to the Central Government Health Scheme and/or on account of preventive health check-up.

3. Payment should be made out of income chargeable to tax.

4. Payment should be made by any mode other than cash. However, payment on account of preventive health check-up can be made by any mode (including cash).

107.3-2 MAXIMUM DEDUCTIBLE AMOUNT - The maximum deductible amount (from the assessment year 2009-10) and other relevant points are given below—

	Individual		HUF
	Family	Parents	
• For whose benefits payment can be made	For the benefit of the assessee, spouse of the assessee and dependent children of the assessee	For the benefit of parents of the assessee whether dependent or not	For the benefit of any member of family
• Nature of payment			
a. Medi-claim insurance premium	Deduction available	Deduction available	Deduction available
b. Contribution made to Central Government Health Scheme (from the assessment year 2011-12 onwards) or any scheme notified† by the Central Government (from the assessment year 2014-15)	Deduction available	—	—
c. Payment on account of preventive health check-up (from the assessment year 2013-14 onwards)	Deduction available	Deduction available	—
• Maximum amount of deduction			
- General deduction [applicable in respect of (a), (b) and (c) given above but payment on account of preventive health check-up of self, spouse, dependant children and parents cannot exceed Rs. 5,000]	Rs.15,000	Rs.15,000	Rs.15,000
- Additional deduction (applicable only in the case of medi-claim insurance premium when policy is taken on the life of a senior citizen)	Rs. 5,000	Rs. 5,000	Rs. 5,000

Note - Senior citizen for the aforesaid purpose is a resident individual and whose age at any time during the relevant previous year should be at least—

a. 65 years (applicable for the previous year relevant to the assessment year 2012-13 or earlier year); or

b. 60 years (applicable for any previous year relevant to the assessment year 2013-14 onwards).

107.4 Deduction in respect of maintenance including medical treatment of a handicapped dependent who is a person with disability [Sec. 80DD, applicable from the assessment year 1999-2000 onwards]- The provisions of section 80DD as applicable from the assessment year 2004-05 are given below—

†Contributory Health Service Scheme of the Department of Space.

107.4-1 *CONDITIONS* - The following conditions should be satisfied—

1. The taxpayer is resident in India (maybe ordinarily resident or not ordinarily resident).
2. The resident taxpayer is an individual (maybe an Indian citizen or foreign citizen) or a Hindu undivided family.
3. The taxpayer has opted for any (or both) of the following options—

<i>Option 1</i>	<i>Option 2</i>
The taxpayer has incurred an expenditure for the medical treatment (including nursing), training and rehabilitation of a dependent (being a person with disability)*	The taxpayer has paid or deposited under any scheme framed in this behalf by the Life Insurance Corporation or any other insurer, or the administrator ¹ or specified company ² and approved by the Board in this behalf, for maintenance of dependent (being a person with disability*)

4. For the above purpose, a “dependent being a person with disability*” is a person who satisfies the following points—

- a. in the case of an individual, dependent means the spouse, children, parents, brothers and sisters of the individual or any of them;
 - b. in the case of a Hindu undivided family, “dependent” means a member of a Hindu undivided family;
 - c. such person is wholly or mainly dependent upon such individual or Hindu undivided family for support and maintenance;
 - d. such person has not claimed any deduction under section 80U in computing his total income for the assessment year relating to the previous year;
 - e. “disability*” shall have the meaning assigned to it in section 2(i) of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 [*see* para 107.32];
 - f. “person with disability” means a person having any “disability” stated above of not less than 40 per cent.
5. Under *option 2*, the scheme provides for payment of an annuity or a lump sum amount for the benefit of dependent, being a person with disability in the event of the death of the individual or the member of the Hindu undivided family in whose name subscription to the scheme has been made.
6. Under *option 2*, the assessee nominates either the dependent being a person with disability or any other person or a trust to receive the payment on his behalf, for the benefit of such dependent.
7. For claiming the deduction, the assessee shall have to furnish a copy of the certificate issued by the medical authority [*see* para 107.32] along with the return of income. Where the condition of disability requires reassessment, a fresh certificate from the medical authority shall have to be obtained after the expiry of the period mentioned on the original certificate in order to continue to claim the deduction.

107.4-2 *AMOUNT OF DEDUCTION* - The amount deductible is a fixed deduction of Rs. 50,000 whenever the conditions specified above are satisfied, irrespective of the amount incurred or deposited under *Option 1* and/or *Option 2*. A higher deduction of Rs. 1,00,000 (Rs. 75,000 up to the assessment year 2009-10) shall be allowed, where such dependent is a person with severe disability having any disability of 80 per cent or above.

107.4-3 *IF DEPENDENT PREDECEASES THE TAXPAYER* - If the dependent with disability predeceases the individual or the member of the Hindu undivided family referred to above, an amount equal to the amount paid or deposited as stated above shall be deemed to be the income of the assessee of the previous year in which such amount is received by the assessee and shall accordingly be chargeable to tax as the income of that previous year.

107.4-E1 X is a resident individual. He annually deposits a sum of Rs. 15,000 with LIC for the maintenance of his handicapped grandfather who is wholly dependent upon him. The disability is one which is specified in Rule 11A. It also comes under section 2(i) of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995. A copy of certificate from medical authority is submitted.

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As grandfather does not come within the definition of “dependent” in section 80DD, nothing shall be deducted under section 80DD.

107.4-E2 Suppose in Example 107.4-E1, the person with disability is dependent brother.

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1. “Administrator” means the Administrator as referred to in clause (a) of section 2 of the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002.

2. “Specified company” means a company as referred to in clause (h) of section 2 of the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002.

*Meaning of “disability” has been extended from the assessment year 2005-06 to include “autism”, “cerebral palsy” and “multiple disability” referred to in clauses (a), (c) and (h) of section 2 of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999.

As brother comes in the definition of “dependent”, Rs. 50,000 is deductible. If, however, the dependent brother is a person with severe disability over 80%, then Rs. 75,000 is deductible.

107.5 Deduction in respect of medical treatment [Sec. 80DDB] - The provisions of section 80DDB as applicable from the assessment year 2004-05 are given below—

107.5-1 CONDITIONS - One has to satisfy the following conditions—

1. The taxpayer is resident in India.
2. The taxpayer is an individual (maybe an Indian citizen or a foreign citizen) or a Hindu undivided family.
3. The taxpayer has actually paid any amount for the medical treatment of a specified disease or ailment as prescribed by the Board.
4. The expenditure is actually incurred for medical treatment of the assessee himself or wholly/mainly dependent husband/wife, children, parents, brothers and sisters of the taxpayer. If the taxpayer is a Hindu undivided family, the expenditure is actually incurred for the medical treatment of any member of the family who is wholly/mainly dependent upon the family.
5. The assessee shall have to submit a certificate in the prescribed form from a neurologist, an oncologist, a urologist, a haematologist, an immunologist or such other specialist, as may be prescribed, working in a Government hospital.

107.5-2 AMOUNT OF DEDUCTION - If all the aforesaid are satisfied, the amount of deduction is Rs. 40,000 or the amount actually paid, whichever is lower.

- Where the amount is paid in respect of the assessee or his dependant or any member of a Hindu undivided family of the assessee and who is a senior citizen [*i.e.*, an individual who is resident in India and who is at least 65 years (60 years from the assessment year 2013-14) of age at any time during the previous year], then Rs. 60,000 or actual expenditure, whichever is lower, will be available as deduction.

- Deduction under this section shall be reduced by the amount received, if any, under an insurance from an insurer, or reimbursed by an employer, for the medical treatment of the person referred to above.

107.5-3 OTHER POINTS - The following points shall be noted—

1. For this purpose “Government hospital” includes a departmental dispensary whether full-time or part-time established and run by a department of the Government for the medical attendance and treatment of a class or classes of Government servants and members of their families, a hospital maintained by a local authority and any other hospital with which arrangements have been made by the Government for the treatment of Government servants.

2. The requirement is only of working in a Government hospital which is of much wider import than employed in a Government hospital on regular basis. A surgeon rendering honorary service at a Government hospital is as such a surgeon working on regular basis in a Government hospital under regular rules of employment—*Snehlata Chandrakant Chalishazar v. Thanvi* [2000] 108 Taxman 171 (Guj.).

107.5-E1 Find out the amount of deduction under section 80DDB in the following cases for the assessment year 2014-15—

Name of the taxpayer	X	Y	Z	A	B
Residential status of the taxpayer	Resident	Resident	Resident	Resident	Non-resident
Expenditure incurred on medical treatment of dependent mother in a hospital recognised by the Chief Commissioner (amount in rupees)	90,000	26,000	80,000	1,00,000	34,000
Age of mother	58 years	57 years	62 years	63 years	65 years
Residential status of dependent mother	Resident	Non-resident	Resident	Non-resident	Resident
Whether the disease is specified under rule made by the Board	Yes	Yes	Yes	Yes	Yes
Amount received from insurance company (amount in rupees)	4,000	14,000	70,000	15,000	7,000
Amount received from the employer of the taxpayer (amount in rupees)	6,000	3,000	4,000	20,000	16,000
• Deduction under section 80DDB if no money is recovered from insurance company and employer	40,000	26,000	60,000	40,000	Nil
Less: Amount received from insurance company and employer	10,000	17,000	74,000	35,000	23,000
Amount of deduction under section 80DDB	30,000	9,000	Nil	5,000	Nil

107.6 Deduction in respect of interest on loan taken for higher education [Sec. 80E] - Deduction under section 80E is available from the assessment year 1995-96 if the following conditions are satisfied :

1. The assessee is an individual.
2. He had taken a loan from any financial institution [*i.e.*, a banking company or notified financial institution†] or an approved charitable institution [*i.e.*, an institution approved for the purpose of section 10(23C) or 80G(2)(a)].
3. The loan was taken for the purpose of pursuing higher education [*i.e.*, full-time studies for any graduate or post-graduate course in engineering (including technology/architecture), medicine, management or for postgraduate course in applied sciences or pure sciences including mathematics and statistics]. Section 80E has been amended from the assessment year 2010-11 to extend its scope to cover all fields of studies (including vocational studies) pursued after passing the Senior Secondary Examination or its equivalent from any school, board or university recognised by the Central Government or State Government or local authority or by any other authority authorized by the Central Government or State Government or local authority to do so.
4. The loan was taken by the taxpayer for the purpose of pursuing his own higher education (or from the assessment year 2008-09, for the purpose of his higher education or higher education of relatives, *i.e.*, spouse/ any child). With effect from the assessment year 2010-11, the scope of the expression “relative” has been extended to cover the student for whom the taxpayer is the legal guardian.
5. Amount is paid by the individual during the previous year by way of interest on such loan (up to the assessment year 2005-06, deduction was also available in respect of repayment of loan subject to limit given below).
6. Such amount is paid out of his income chargeable to tax.

107.6-1 AMOUNT OF DEDUCTION- The following amount is deductible when all the aforesaid conditions are satisfied :

- *From the assessment year 2006-07* - Entire payment of interest is deductible. The deduction is available for a maximum of 8 years or till the interest is paid, whichever is earlier. This deduction is allowed in computing the taxable income of the initial assessment year (*i.e.*, the assessment year relevant to the previous year in which the assessee starts paying the interest on the loan) and seven immediately succeeding assessment years (or until the above interest is paid in full, whichever is earlier).

Provisions illustrated - The table given below highlights the above provisions—

Situation	Date of taking the loan for higher education specified under section 80E	Who has taken the loan	For whose higher education loan is taken	Interest paid during the previous year 2006-07 and deduction available for the assessment year 2007-08			Interest paid during the previous year 2007-08 (or any subsequent year) and deduction available for the assessment year 2008-09 year (or subsequent year)		
				Who has paid interest/amount of interest Rs.	Deduction available to father Rs.	Deduction available to son Rs.	Who has paid interest/amount of interest Rs.	Deduction available to father Rs.	Deduction available to son Rs.
Case 1	April 10, 2002	Father	Son	Father/60,000	Nil	Nil	Father/60,000	60,000	Nil
Case 2	April 10, 2002	Father	Son	Son/70,000	Nil	Nil	Son/68,000	Nil	Nil
Case 3	April 10, 2006	Father	Son	Father/85,000	Nil	Nil	Father/83,000	83,000	Nil
Case 4	April 10, 2006	Father	Son	Son/46,000	Nil	Nil	Son/44,000	Nil	Nil
Case 5	April 10, 2002	Father	Son	Father/60,000, son/67,000	Nil	Nil	Father/58,000, son/51,000	58,000	Nil
Case 6	April 10, 2006	Father	Son	Father/86,000, son/92,000	Nil	Nil	Father/78,000, son/60,000	78,000	Nil
Case 7	April 10, 2006	Son	Father	Father/86,000, son/92,000	Nil	Nil	Father/78,000, son/60,000	Nil	Nil
Case 8	April 10, 2006	Son	Son	Father/86,000, son/92,000	Nil	92,000	Father/78,000, son/60,000	Nil	60,000

†HDFC Ltd., Credila Financial Services Private Ltd.

- *Up to the assessment year 2005-06* - The amount deductible is—
 - a. amount paid during the year by way of repayment of loan and/or interest thereon ; or
 - b. Rs. 40,000 (Rs. 25,000 up to the assessment year 2000-01);
 whichever is lower.

The first year in which the deduction is available is the year in which the person starts repaying the loan. The deduction is available for a maximum period of 8 years or till the principal amount of such loan together with interest is liquidated, whichever is earlier.

107.6A Deduction in respect of interest on loan taken for residential house property [Sec. 80EE, applicable from the assessment year 2014-15] - The provisions of section 80EE are given below—

- *Conditions* - The following conditions should be satisfied in order to claim deduction under section 80EE –
 1. The assessee is an individual. He may be resident or non-resident.
 2. He has taken a loan.
 3. Loan is taken for acquisition of residential house property.
 4. Loan is taken from a bank or a housing finance company. Bank for this purpose means a banking company to which the Banking Regulation Act, 1949 applies including any bank or banking institution referred to in section 51 of that Act. A housing finance company means a public company formed or registered in India with the main object of carrying on the business of providing long-term finance for construction or purchase of residential houses in India.
 5. Loan has been sanctioned by the bank/housing finance company during April 1, 2013 and March 31, 2014.
 6. The amount of loan sanctioned for residential house property does not exceed Rs. 25 lakh.
 7. The value of residential house property does not exceed Rs. 40 lakh.
 8. The assessee does not own any residential house property on the date of sanction of loan.
- *Amount of deduction* - If the above conditions are satisfied, the assessee will be eligible for deduction under section 80EE. Deduction will be available in respect of interest payable on the above loan or Rs. 1 lakh, whichever is less. Deduction will be available for the assessment year 2014-15. If, however, interest payable for the previous year 2013-14 (*i.e.*, the assessment year 2014-15) is less than Rs. 1 lakh, the balance shall be allowed as deduction for the assessment year 2015-16.
- *Double deduction not possible* - If deduction is claimed under section 80EE, no deduction will be allowed in respect of such income under any other provision of the Act for the same or any other assessment year.

107.6A-E1 Find out the amount of deduction under section 80EE in the following cases (in all cases taxpayers are individuals, loan is taken from Punjab National Bank for purchasing residential property) –

Name of assessee (Case No.)	Date of making application	Date on which loan sanctioned	Amount of loan sanctioned Rs.	Value of residential house property Rs.	Whether assessee owns any residential house property on date of loan sanctioned	Interest payable for previous year 2013-14 Rs.
X (Case 1)	March 1, 2013	April 10, 2013	25 lakh	40 lakh	No	1.25 lakh
Y (Case 2)	March 1, 2013	April 10, 2013	25 lakh	40 lakh	No	1 lakh
Z (Case 3)	March 1, 2013	April 10, 2013	25 lakh	40 lakh	No	0.7 lakh
A (Case 4)	March 1, 2013	April 10, 2013	25 lakh	40 lakh	No	0.1 lakh
B (Case 5)	March 6, 2014	April 10, 2014	25 lakh	40 lakh	No	1 lakh
C (Case 6)	March 1, 2013	April 10, 2013	26 lakh	40 lakh	No	1 lakh
D (Case 7)	March 1, 2013	April 10, 2013	25 lakh	41 lakh	No	1 lakh
E (Case 8)	March 1, 2013	April 10, 2013	25 lakh	40 lakh	Yes	1 lakh

- *Case 1* - X satisfies all conditions of section 80EE. Rs. 1 lakh is deductible under section 80EE. In respect of this interest, deduction under section 24 or any other section is not available. Date of making loan application is irrelevant. Date on which residential property is acquired is not considered for the purpose of deduction under section 80EE. Suppose, in this case, rate of interest is 10 per cent and loan of Rs. 25 lakh is released on October

1, 2013 but the property is acquired (or construction of property is completed) on June 1, 2015. Interest liability of the previous year 2013-14 is Rs. 1.25 lakh out of which Rs. 1 lakh is deductible under section 80EE.

Pre-construction period for the purpose of section 24(b) will be October 1, 2013 to March 31, 2015. Interest liability of pre-construction period comes to Rs. 3.75 lakh. Out of which Rs. 1 lakh is claimed as deduction under section 80EE for the previous year 2013-14. The balance of Rs. 2.75 lakh is deductible as pre-construction period's interest in 5 years in 5 equal instalments. The first instalment of Rs. 55,000 will be deductible in the previous year 2015-16.

Case 2 - As Y satisfies all conditions of section 80EE, Rs. 1 lakh is deductible for the previous year 2013-14. As mentioned earlier, it will not be considered for claiming deduction under section 24 or under any other section.

Case 3 - Z satisfies all conditions of section 80EE. Rs. 70,000 will be deductible under section 80EE for the previous year 2013-14 (assessment year 2014-15). The balance of Rs. 30,000 will be allowed as deduction for the previous year 2014-15 (assessment year 2015-16) under section 80EE, if interest payable for the previous year 2014-15 is Rs. 30,000 (or more).

Case 4 - A satisfies all conditions of section 80EE. Rs. 10,000 will be deductible under section 80EE for the previous year 2013-14 (assessment year 2014-15). The balance of Rs. 90,000 will be allowed as deduction for the previous year 2014-15 (assessment year 2015-16) under section 80EE. If interest payable for the previous year 2014-15 is Rs. 20,000, the amount deductible under section 80EE for the assessment year 2015-16 will be Rs. 20,000. The balance of Rs. 70,000 will not be deductible under section 80EE in the next or subsequent years. However, deduction can be claimed under section 24.

Case 5 - Loan is not sanctioned during the previous year 2013-14. Date of application is irrelevant. Deduction under section 80EE is not available. However, deduction can be claimed under section 24.

Case 6 - As the amount of sanctioned loan is more than Rs. 25 lakh, deduction under section 80EE is not available. This rule is applicable even if, amount of loan actually released during the previous year 2013-14 is Rs. 25 lakh or less. However, C can claim deduction under section 24.

Case 7 - As the value of residential property is more than Rs. 40 lakh, deduction under section 80EE is not available. There is no notional definition for "value" of residential property for this purpose. Consequently, stamp duty value is not considered for the purpose of section 80EE.

Case 8 - Deduction under section 80EE is not available as E owns a residential property on the date of sanction of loan. E can, however, claim deduction under section 24.

107.6A-E2 X purchases a residential house property of Rs. 35 lakh by taking a loan from a housing finance company of Rs. 25 lakh. The loan is sanctioned and property is purchased during May 2013. X has occupied the property for his own residential purposes and interest liability for the previous year 2013-14 is Rs. 2.5 lakh (*Situation 1*), Rs. 2.7 lakh (*Situation 2*), Rs. 1.6 lakh (*Situation 3*) or Rs. 95,000 (*Situation 4*). Find out the net income of X for the assessment years 2014-15 and 2015-16, on the assumption that interest liability for the previous years 2013-14 and 2014-15 is same. X pays every year Rs. 90,000 as municipal tax and Rs. 90,000 as contribution to public provident fund account. His annual income from other sources is Rs. 10 lakh.

	<i>Situation 1</i> Rs.	<i>Situation 2</i> Rs.	<i>Situation 3</i> Rs.	<i>Situation 4</i> Rs.
<i>Assessment year 2014-15</i>				
Gross annual value	Nil	Nil	Nil	Nil
Less: Municipal tax	Nil	Nil	Nil	Nil
Net annual value	Nil	Nil	Nil	Nil
Less: Deduction under section 24 –				
- standard deduction under section 24(a)	Nil	Nil	Nil	Nil
- interest on borrowed capital under section 24(b) [maximum deduction : Rs. 1,50,000]	1,50,000	1,50,000	1,50,000	95,000
Income from house property	(-1,50,000)	(-1,50,000)	(-1,50,000)	(-95,000)
Income from other sources	10,00,000	10,00,000	10,00,000	10,00,000
Gross total income	8,50,000	8,50,000	8,50,000	9,05,000

	Situation 1 Rs.	Situation 2 Rs.	Situation 3 Rs.	Situation 4 Rs.
<i>Less:</i> Deductions				
Under section 80C	90,000	90,000	90,000	90,000
Under section 80EE (<i>i.e.</i> , interest payable – deduction claimed under section 24) [maximum deduction : Rs. 1 lakh]	1,00,000	1,00,000	10,000	Nil
Net income	6,60,000	6,60,000	7,50,000	8,15,000
<i>Assessment year 2015-16</i>				
Net annual value	Nil	Nil	Nil	Nil
<i>Less:</i> Interest on borrowed capital under section 24(b) [maximum deduction : Rs. 2,00,000]	2,00,000	2,00,000	1,60,000	95,000
Income from house property	(-2,00,000)	(-2,00,000)	(-1,60,000)	(-95,000)
Income from other sources	10,00,000	10,00,000	10,00,000	10,00,000
Gross total income	8,00,000	8,00,000	8,40,000	9,05,000
<i>Less:</i> Deductions				
Under section 80C	90,000	90,000	90,000	90,000
Under section 80EE	Nil	Nil	Nil	Nil
Net income	7,10,000	7,10,000	7,50,000	8,15,000

Note - Deduction under section 80EE is available for the previous year 2014-15 (assessment year 2015-16) only if interest payable for the earlier previous year 2013-14 is less than Rs. 1 lakh. In *Situations 1, 2 and 3*, interest payable for the previous year 2013-14 is more than Rs. 1 lakh. Consequently, no deduction is available under section 80EE for the previous year 2014-15 (assessment year 2015-16). In *Situation 4*, interest payable for the previous year 2013-14 is less than Rs. 1 lakh. But, no deduction is available under 80EE for the assessment year 2015-16 in *Situation 4*, as the interest is deductible under section 24(b).

107.6A-E3 Suppose in example 107.6A-E2, the residential property is a let out property and gross annual value is Rs. 6 lakh. Find out the net income for the assessment years 2014-15 and 2015-16.

	Situation 1 Rs.	Situation 2 Rs.	Situation 3 Rs.	Situation 4 Rs.
<i>Assessment year 2014-15 or 2015-16</i>				
Gross annual value	6,00,000	6,00,000	6,00,000	6,00,000
<i>Less:</i> Municipal tax	90,000	90,000	90,000	90,000
Net annual value	5,10,000	5,10,000	5,10,000	5,10,000
<i>Less:</i> Deduction under section 24 –				
- standard deduction under section 24(a)	1,53,000	1,53,000	1,53,000	1,53,000
- interest on borrowed capital under section 24(b) [no maximum limit]	2,50,000	2,70,000	1,60,000	95,000
Income from house property	1,07,000	87,000	1,97,000	2,62,000
Income from other sources	10,00,000	10,00,000	10,00,000	10,00,000
Gross total income	11,07,000	10,87,000	11,97,000	12,62,000
<i>Less:</i> Deductions				
Under section 80C	90,000	90,000	90,000	90,000
Under section 80EE (<i>i.e.</i> , interest payable – deduction claimed under section 24) [maximum deduction : Rs. 1 lakh]	Nil	Nil	Nil	Nil
Net income	10,17,000	9,97,000	11,07,000	11,72,000

107.7 Deduction in respect of donations to certain funds, charitable institutions, etc. [Sec. 80G] - The deduction under section 80G is available to any taxpayer (maybe individual, company, firm or any other person) and calculated under the following three steps :

Step 1 : Gross qualifying amount [see para 107.7-1]

Step 2 : Net qualifying amount [see para 107.7-2]

Step 3 : Amount deductible [see para 107.7-3]

107.7-1 STEP 1 - GROSS QUALIFYING AMOUNT - Gross qualifying amount is the aggregate of the donations made to any of the institutions/fund given in column 1 of the table given in para 107.7-3. Donation made in kind shall not be included.

107.7-2 STEP 2 - NET QUALIFYING AMOUNT - Net qualifying amount is limited to 10 per cent of gross total income of the assessee as reduced by the following :

- a. amount deductible under sections 80CCC to 80U (but not section 80G);
- b. such incomes on which income-tax is not payable;
- c. long-term capital gains;
- d. short-term capital gains taxable @ 10 per cent under section 111A; and
- e. incomes referred to in section 115A, 115AB, 115AC or 115AD.

The aforesaid ceiling does not apply in relation to donations made to funds specified in (a), (b), (c), (d), (e), (f), (g), (h), (i), (j), (k), (l), (m), (n), (o), (p), (q), (r), (s), (t), (u) and (zc) of step 1.

107.7-3 AMOUNT DEDUCTIBLE - Net qualifying amount is eligible for deduction on the basis given below in column (3) of table *infra*—

<i>Donee</i>	<i>Maximum limit</i>	<i>Deduction (as a percentage of net qualifying amount)</i>
a. National Defence Fund set up by the Central Government	Not applicable	100 per cent**
b. Jawaharlal Nehru Memorial Fund	Not applicable	50 per cent
c. Prime Minister's Drought Relief Fund	Not applicable	50 per cent
d. Prime Minister's National Relief Fund	Not applicable	100 per cent
e. Prime Minister's Armenia Earthquake Relief Fund	Not applicable	100 per cent
f. Africa (Public Contributions - India) Fund	Not applicable	100 per cent
g. National Children's Fund	Not applicable	100 per cent*
h. Indira Gandhi Memorial Trust	Not applicable	50 per cent
i. Rajiv Gandhi Foundation	Not applicable	50 per cent
j. National Foundation for Communal Harmony	Not applicable	100 per cent
k. An approved university/educational institution ¹	Not applicable	100 per cent
l. The Maharashtra Chief Minister's Relief Fund during October 1, 1993 and October 6, 1993 and the Chief Minister's Earthquake Relief Fund	Not applicable	100 per cent
m. Any fund set up by the State Government of Gujarat for providing relief to the victims of earthquake in Gujarat	Not applicable	100 per cent
n. Zila Saksharta Samiti	Not applicable	100 per cent
o. National Blood Transfusion Council and State Council for Blood Transfusion	Not applicable	100 per cent
p. Fund set up by a State Government for the medical relief to the poor	Not applicable	100 per cent
q. Central Welfare Fund of the Army and Air Force and the Indian Naval Benevolent Fund	Not applicable	100 per cent
r. Andhra Pradesh Chief Minister's Cyclone Relief Fund	Not applicable	100 per cent
s. National Illness Assistance Fund	Not applicable	100 per cent
t. Chief Minister's Relief Fund or Lieutenant Governor's Relief Fund	Not applicable	100 per cent
u. National Sports Fund or National Cultural Fund or Fund for Technology Development and Application	Not applicable	100 per cent

**50 per cent up to the assessment year 1999-2000.

*50 per cent up to the assessment year 2013-14.

1. For the purposes of section 80G(2)(a)(*iiif*), the prescribed authority,—

- a. in relation to a University or any non-technical institution of national eminence shall be the Director General (Income-tax Exemptions) who shall grant approval with the concurrence of the Secretary, University Grants Commission ;
- b. in relation to any technical institution of national eminence shall be the Director General (Income-tax Exemptions) who shall grant approval with the concurrence of the Secretary, All India Council of Technical Education.

<i>Donee</i>	<i>Maximum limit</i>	<i>Deduction (as a percentage of net qualifying amount)</i>
v. Any other fund or any institution which satisfies conditions mentioned in section 80G(5) ²	As given below	50 per cent
w. Government or any local authority to be utilised for any charitable purpose other than the purpose of promoting family planning	As given below	50 per cent
x. Any authority referred to in section 10(20A) [<i>i.e.</i> , an authority constituted in India for the purpose of dealing with and satisfying the need for housing accommodation or for the purpose of planning/development of towns, villages, etc.]	As given below	50 per cent
y. Any corporation specified in section 10(26BB) for promoting interest of minority community	As given below	50 per cent
z. Government or any approved local authority, institution or association to be utilised for the purpose of promoting family planning	As given below	100 per cent
za. Any notified temple, mosque, gurdwara, church or other place (for renovation or repair)	As given below	50 per cent
zb. Donation by a company to the Indian Olympic Association or to any other association or institution notified for the development of infrastructure for sports and games in India or the sponsorship of sports and games in India (applicable from the assessment year 2001-02)	As given below	100 per cent
zc. Any trust, institution or fund to which section 80G(5C) applies for providing relief to the victims of earthquake in Gujarat (contribution can be made during January 26, 2001 and September 30, 2001)	Not applicable	100 per cent
zd. National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities (applicable for the assessment year 2002-03)	Not applicable	100 per cent

2. The application for approval of any institution or fund shall be in Form No. 10G and shall be made in triplicate. The application shall be accompanied by the following documents, namely :

- a. copy of registration granted under section 12A or copy of notification issued under section 10(23) or 10(23C) ;
- b. notes on activities of institution of fund since its inception or during the last year, whichever is less ;
- c. copies of accounts of the institution or fund since its inception or during the last three years, whichever is less.

• The Commissioner may call for such further documents or information from the institution or fund or cause such inquiries to be made as he may deem necessary in order to satisfy himself about the genuineness of the activities of such institution or fund.

• Where the Commissioner is satisfied that all the conditions laid down in section 80G(5)(i) to (iv) are fulfilled by the institution or fund, he shall record such satisfaction in writing and grant approval to the institution or fund specifying the assessment year or years for which the approval is valid.

• Where the Commissioner is satisfied that one or more of such conditions are not fulfilled, he shall reject the application for approval, after recording the reasons for such rejection in writing. However, no order or rejection of an application shall be passed without giving the institution or fund an opportunity of being heard.

• The time limit, within which the Commissioner shall pass an order either granting the approval or rejecting the application shall not exceed six months from the date on which such application was made. However, in computing the period of six months, any time taken by the applicant in not complying with the directions of the Commissioner shall be excluded— Notification No. 9099, dated September 21, 1992.

• Where an institution or fund has been approved under clause (vi) of section 80G(5) for the previous year 2007-08, such institution or fund shall be deemed to have been established for charitable purposes and approved [for the purpose of section 80G(5)(vi)] for the previous year 2008-09.

• Approval of the Commissioner under section 80G(5)(vi) has effect for such assessment year or years, not exceeding five assessment years, as may be specified in the approval. However, the time-limit of 5 years has been omitted with effect from October 1, 2009 by the Finance (No. 2) Act, 2009. After this amendment, the approval once granted shall continue to be valid in perpetuity. Accordingly, existing approvals expiring on or after October 1, 2009 shall be deemed to have been extended in perpetuity, unless specifically withdrawn. However, in case of approvals expiring before October 1, 2009, these will have to be renewed and once renewed these shall continue to be valid in perpetuity, unless specifically withdrawn—Circular No. 7/2010, dated October 27, 2010. Further, the Commissioner will also have the power to withdraw the approval if the Commissioner is satisfied that the activities of such an institution or fund are not genuine or are not being carried out in accordance with the objects of the institution or fund.

Maximum amount - Where the aggregate of the sums mentioned in (v), (w), (x), (y), (z) (za) or (zb) *supra* exceeds 10 per cent of the adjusted gross total income, then the amount in excess of 10 per cent of the adjusted gross total income will be ignored while computing the aggregate of the sums in respect of which deduction is to be allowed.

107.7-4 *MODE OF PAYMENT* - Donation can be given in cash or by cheque or draft. However, no deduction shall be allowed under section 80G in respect of donation in cash of an amount exceeding Rs. 10,000 from the assessment year 2013-14.

107.7-5 *PROOF OF PAYMENT* - Proper proof of payment must be submitted to claim deduction—*Golecha Properties (P.) Ltd. v. CIT* [1988] 171 ITR 47 (Raj.). However, simply because a receipt which is produced before the Assessing Officer is defective (not affixed with revenue stamps) it does not automatically invalidate the donation itself.

A receipt issued by the donee-institute should be submitted to get the benefit of deduction. If, however, donations are made to the National Defence Fund, the Army Central Welfare Fund, Indian Naval Benevolent Fund, Air Force Central Welfare Fund, National Relief Fund, the Chief Minister's Relief Fund or the Lieutenant Governor's Relief Fund, through the employer by a consolidated cheque, deduction will be available on the basis of certificate issued by DDO/employer in this behalf — Circular No. 777, dated July 1, 1999, Circular No. 782, dated November 13, 1999, Circular No. 7/2001, dated March 21, 2001 and Circular No. 2/2005, dated January 12, 2005.

107.7-E1 X (32 years), an Indian citizen, gives the following particulars of his income and expenditure for the previous year 2013-14:

	Rs.
Business income	3,00,000
Long-term capital gain on sale of gold	1,00,000
Short-term capital gain on sale of debentures	20,000
Short-term capital gain taxable @ 15 per cent under section 111A	30,000
Income from other sources (including bank interest : Rs. 19,000)	25,700
Donation* to the Jawahar Lal Nehru Memorial Fund	24,000
Donation* to the Government of India for promotion of family planning	27,700
Donation* to Prime Minister's National Relief Fund	18,000
Donation* to Africa (Public, Contributions—India) Fund	5,000
Donation* to National Foundation for Communal Harmony	7,000
Donation* to an approved charitable trust	22,000
Donation in kind to an approved charitable trust	3,000
Donation* to an approved university	7,500
Payment* of mediclaim insurance premium	16,000
Deposit in public provident fund	7,000
Determine the net income of X for the assessment year 2014-15.	
•	
Business income	3,00,000
Capital gains	1,50,000
Income from other sources	25,700
Gross total income	4,75,700
Less : Deductions	
Under section 80C	7,000
Under section 80D	15,000
Under section 80G (<i>see</i> Note 1)	79,535
Net income (rounded off)	<u>3,74,170</u>

*Payment by cheque.

Notes :

1. Computation of deduction under section 80G :

	Gross qualifying amount Rs.	Net qualifying amount Rs.	Rate of deduction	Amount of deduction Rs.
Jawahar Lal Nehru Memorial Fund	24,000	24,000	50%	12,000
Prime Minister's National Relief Fund	18,000	18,000	100%	18,000
Africa (Public Contributions—India) Fund	5,000	5,000	100%	5,000
National Foundation for Communal Harmony	7,000	7,000	100%	7,000
Approved university	7,500	7,500	100%	7,500
Charitable trust (given in kind)	Nil	Nil	NA	Nil
Charitable trust (in cash)	22,000	4,670 <i>(see Note 2)</i>	50%	2,335
Government of India for promoting family planning	27,700	27,700 <i>(see Note 2)</i>	100%	27,700
Total	<u>1,11,200</u>	<u>93,870</u>	<u>—</u>	<u>79,535</u>

2. In respect of donation for family planning and approved charitable trust, amount to be included in net qualifying amount is the lower of (a) Rs. 49,700 (being amount of donation) or (b) Rs. 32,370 (being 10% of adjusted gross total income computed under Note 3). Rs. 32,370 (being the lower sum), is to be included. As the amount of Rs. 32,370, represents aggregate amount of net qualifying donations in respect of family planning and to charitable trust, separate amounts in respect of these will be as under :

	Rs.
Donation to the Government for promoting family planning	27,700
Donation to approved charitable institution (<i>i.e.</i> , Rs. 32,370—Rs. 27,700)	4,670
	<u>32,370</u>

3. *Adjusted gross total income*

Gross total income	4,75,700
Less: Long-term capital gain and short-term capital gain under section 111A	1,30,000
Balance	3,45,700
Less: Amount of deduction under sections 80C to 80U (except section 80G)	22,000
Adjusted gross total income	3,23,700

107.8 Deduction in respect of rent paid [Sec. 80GG] - In computing total income, an assessee is allowed a deduction in respect of expenditure towards payment of rent for any furnished or unfurnished accommodation occupied by him for the purpose of his own residence provided the following conditions are satisfied:

- He should be a self-employed person and/or a salaried employee who is not in receipt of house rent allowance at any time during the previous year.
- He or his spouse or minor child (including step child and adopted child) or the Hindu undivided family of which he is a member, should not own any residential accommodation in India or abroad. Deduction under section 80GG is denied only where the taxpayer, his spouse or minor child or the Hindu undivided family of which he is a member, owns any residential accommodation at the place where the taxpayer resides, performs the duties of his office, or employment or carries on his business or profession. Where, however, the taxpayer owns any residential accommodation at any other place and the concession in respect of self-occupied house property under section 23(2)(a) or 23(4)(a) is claimed by him in respect of such accommodation, no deduction is allowed in respect of the rent paid under section 80GG even if he does not own any residential accommodation at the place where he ordinarily resides, performs the duties of his office or employment or carries on his business or profession.
- The assessee should file a declaration in Form No. 10BA regarding the expenditure incurred by him towards payment of rent.

Amount of deduction - The amount deductible under this section is *the least of* the following amounts:

- a. Rs. 2,000 per month;

- b. 25 per cent of total income (total income is calculated after excluding long-term capital gain, short-term capital gain under section 111A, and income referred to in section 115A or 115D and amount deductible under sections 80C to 80U but before making any deduction under this section); or
- c. the excess of actual rent paid over 10 per cent of total income (total income is calculated after excluding long-term capital gain, short-term capital gain under section 111A, and income referred to in section 115A or 115D and amount deductible under sections 80C to 80U but before making any deduction under this section).

107.9 Deduction in respect of certain donations for scientific research or rural development [Sec. 80GGA]- An assessee (other than an assessee whose gross total income includes income[†] chargeable under the head “Profits and gains of business or profession”) is entitled to deduction in the computation of his total income in respect of the following payments/donations :

- Sums paid to a research association which has as its object the undertaking of scientific research, or to a university, college or other institution to be used for scientific research where such association, university, college or institution has been approved by the prescribed authority for the purpose of section 35(1)(ii).
- Sums paid to a university (or with effect from the assessment year 2011-12, a research association which has as its object the undertaking of research in social science or statistical research), college or other institution to be used for research in social science or statistical research provided such university, association, college or institution is approved for the purpose of section 35(1)(iii) [applicable from the assessment year 1992-93 onwards].
- Sums paid to an approved association or institution which has as its object the undertaking of any programme of rural development to be used for carrying out any such programme approved under section 35CCA.
- Sums paid to an approved association or institution which has as its object the training of persons for implementing programmes of rural development.
- Sums paid to a public sector company, local authority or an approved association or institution for carrying out any eligible project or scheme, referred to in section 35AC [applicable from the assessment year 1992-93 onwards].
- Sum paid (before April 1, 2002) to an approved association or institution, which has as its object the undertaking of any programme of conservation of natural resources (or of afforestation, with effect from the assessment year 1991-92), to be used for carrying out any programme approved under section 35CCB.
- With effect from the assessment year 1983-84, any sum paid towards notified rural development fund [*i.e.*, National Fund for Rural Development notified *vide* Notification No. GSR 84(E), dated February 28, 1984].
- With effect from the assessment year 1991-92, sum paid (before April 1, 2002) to notified fund for afforestation.
- Sums paid to notified National Poverty Eradication Fund (applicable from the assessment year 1996-97). Where deduction under this section is claimed and allowed, deduction will not be allowed in respect of the same payment under any other provision of the Act for the same or any other assessment year.
- With effect from the assessment year 2006-07, deduction available under section 80GGA shall not be denied merely on the ground that after the contribution made by the assessee to above institutions, the approval granted to these institutions has been withdrawn. In other words, contribution to these institutions will be qualified for deduction even if after the date of making contribution, the approval granted to these institutions has been withdrawn.

107.9-1 MODE OF PAYMENT - Donation can be given in cash or by cheque or draft. However, no deduction shall be allowed under section 80GGA in respect of a cash contribution (exceeding Rs. 10,000) from the assessment year 2013-14.

107.10 Deduction in respect of contributions given by companies to political parties [Sec. 80GGB] - In computing the total income of an Indian company, any sum contributed by it (in the previous year) to any political party or (from the assessment year 2010-11) an electoral trust, is deductible. From the assessment year 2014-15, no deduction shall be allowed in respect of any sum contributed by way of cash.

[†]Even a person who has business loss under the head “Profits and gains of business or profession” cannot claim deduction under section 80GGA—*K. Anji Reddy v. CIT* [2013] 59 SOT 92 (Hyd.).

- The word “contribute” has the meaning assigned to it under section 293A of the Companies Act, 1956. Political party means any political party registered under section 29A of the Representation of the People Act, 1951.

- For advertisement expenditure in a souvenir/brochure owned by a political party, *see* para 48.39.

107.10A Deduction in respect of contributions given by any person to political parties [Sec. 80GGC] -

In computing the total income of an assessee (not being local authority and every artificial juridical person wholly or partly funded by the Government), any amount of contribution made by him (in the previous year), to a political party or (from the assessment year 2010-11) an electoral trust, is deductible. From the assessment year 2014-15, no deduction shall be allowed in respect of any sum contributed by way of cash.

- “Political party” means a political party registered under section 29A of the Representation of the People Act, 1951.

- For advertisement expenditure in a souvenir/brochure owned by a political party, *see* para 48.39.

107.11 Deduction in respect of profits and gains from projects outside India [Sec. 80HHB] - Deduction under section 80HHB is not available from the assessment year 2005-06.

107.12 Deduction in respect of profits and gains from housing projects aided by World Bank [Sec. 80HHBA] - Section 80HHBA has been inserted with effect from the assessment year 1999-2000. No deduction under section 80HHBA is available from the assessment year 2005-06.

107.13 Deduction in respect of export turnover [Sec. 80HHC] - Deduction under section 80HHC is not available from the assessment year 2005-06.

107.14 Deduction under section 80HHD in respect of earning in convertible foreign exchange - Deduction under section 80HHD is not available from the assessment year 2005-06.

107.15 Deduction under section 80HHE in respect of profits from export of computer software - Deduction under section 80HHE is not available from the assessment year 2005-06.

107.16 Deduction in respect of profits and gains from export or transfer of film software [Sec. 80HHF] - Deduction under section 80HHF is not available from the assessment year 2005-06.

107.17 Deduction under section 80-IA* in respect of profits and gains from industrial undertaking or enterprises engaged in infrastructure development etc. - How to find out - Deduction under section 80-IA is available only to the following businesses carried on by an undertaking (however, deduction under section 80-IA is not available to a person who executes a works contract** entered into with the undertakings or enterprises given below) :

- provision of infrastructure facility [*see* para 107.17-1];
- telecommunication services [*see* para 107.17-2];
- industrial parks or special economic zone [*see* para 107.17-3];
- power generation, transmission and distribution [*see* para 107.17-4];
- undertaking set up for reconstruction of a power unit [*see* para 107.17-5]; and
- (for the assessment years 2008-09 and 2009-10), a cross-country natural gas distribution network [*see* para 107.17-6].

107.17-1 INFRASTRUCTURE FACILITY - The provisions of section 80-IA as applicable to an undertaking providing infrastructure facility are given below —

107.17-1a CONDITIONS - An undertaking providing infrastructure facility must satisfy the following conditions —

*For provision of section 80-IA as applicable to the assessment year 1999-2000. *See Taxmann's Direct Taxes Ready Reckoner, 1999 edition.*

**Further, with a view to preventing the misuse of the tax holiday under section 80-IA, it has been provided to clarify (with retrospective effect from 2000-01) that the tax holiday benefit under section 80-IA(4) will not be available in the case of a works contract awarded by any person (including the Central or State Government) and executed by an undertaking or enterprise referred to in section 80-IA(1).

107.17-1a¹ *It should provide infrastructure facility* - The enterprise must carry on the business of (a) developing, or (b) maintaining and operating, or (c) developing, maintaining and operating any infrastructure facility.

• *Meaning of "Infrastructure facility"* - "Infrastructure facility" means† —

- a. a road including toll road, a bridge or a rail system;
- b. a highway project including housing or other activities being an integral part of the highway project;
- c. a water supply project, water treatment system, irrigation project, sanitation and sewerage system or solid waste management system; and
- d. a port, airport, inland waterway or inland port‡ or (from the assessment year 2008-09) navigational channel in the sea.

• *Build-Own-Lease-Transfer (BOLT) scheme of Indian railways* - It has been clarified by the Board, *vide* Circular No. 733, dated January 3, 1996, that the BOLT Scheme of the Indian railways shall be eligible for the benefit of section 80-IA since it is not legally possible for any enterprise other than the Indian railways to maintain and operate a railway system. However, this concession shall be applicable only to an infrastructure facility meant for development of rail system and not to any other infrastructure facility including rolling stocks.

• *Structures at ports* - Structures at ports for storage, loading and unloading, etc., will fall under the definition of "port" for the purposes of sections 10(23G) and 80-IA, if the following conditions were fulfilled:

- a. the concerned port authority has issued a certificate that the said structures form part of the port; and
- b. such structures have been built under BOT or BOLT schemes and there is an agreement that the same would be transferred to the said authority on the expiry of the time stipulated in the agreement—Circular No. 793, dated June 23, 2000.

• Under the treatment of effluents and its conveyance system, the effluents emanating from chemical industries are to be conveyed inside the sea through onshore pipeline and before discharging effluent through pipeline, entire load of effluent is to be treated to marine standards. Therefore, it is a part of 'water treatment system' and would accordingly, qualify as an infrastructure facility for the purposes of tax benefit under section 80-IA—Circular No. 1/2006, dated 12th January, 2006.

• For and from assessment year 2002-03 onwards, structures at the ports for storage, loading and unloading etc. will be included in the definition of "port" for the purpose of sections 10(23G) and 80-IA, if the concerned port authority has issued a certificate that the said structures form part of the port—Circular No. 10/2005, dated 16th December, 2005.

• *Widening of an existing road* - Widening of an existing road by constructing additional lanes as a part of a highway project by an undertaking would be regarded as a new "infrastructure facility". However, simply relaying of an existing road would not be classifiable as a new infrastructure facility for this purpose—Circular No. 4/2010, dated May 18, 2010.

107.17-1a² *Owned by an Indian company* - The enterprise is owned by a company registered in India or by a consortium of such companies or (from the assessment year 2006-07) by any statutory authority/board/corporation.

107.17-1a³ *Agreement* - The enterprise has entered into an agreement with the Central Government or a State Government or a local authority or any other statutory body for developing, maintaining and operating a new infrastructure facility subject to the condition that such infrastructure facility shall be

†The definition of 'infrastructure facility', introduced with effect from April 1, 2002 excludes 'any other public facility of a similar nature as may be notified by the Board in this behalf in the Official Gazette'. Under the earlier provisions, several public facilities have already been notified by the Board as 'infrastructure facilities'. In this connection, a need has been felt to clarify doubts as to whether such notified "infrastructure facilities" would continue to be eligible for such benefit on or after April 1, 2002. The Board has clarified that such projects, for which agreements have been entered into on or after April 1, 1995 but on or before March 31, 2001 and which have been notified by the Board on or before March 31, 2001, would continue to be exempt, subject to the fulfilment of the conditions prescribed in section 80-IA(4)(i)(b), as it existed prior to its substitution by the Finance Act, 2001—Circular No. 7/2002, dated August 26, 2002.

‡Inland Container Depots (ICDs) are inland ports for this purpose – *Container Corporation of India Ltd. v. CIT* [2012] 208 Taxman 62 (Delhi).

transferred to the Central Government, State Government, local authority or such other statutory body, as the case may be, within the period stipulated in the agreement. From the assessment year 2002-03, the mandatory requirement that infrastructure facility shall be transferred to the Central Government, State Government, local authority or any other statutory authority, will not be applicable.

107.17-1a⁴ *Commencement* - The enterprise starts operating and maintaining the infrastructure facility on or after April 1, 1995.

107.17-1a⁵ *Return of income* - From the assessment year 2006-07, return of income should be submitted on or before the due date of submission of return of income given by section 139(1). If return is not submitted or return is submitted belatedly, deduction under this section is not available.

107.17-1a⁶ *Deduction should be claimed in the return of income* - Deduction under section 80-IA is not available unless it is claimed in the return of income. In other words, if the assessee fails to make a claim in his return of income of this deduction, the same will not be allowed (applicable from the assessment year 2003-04 onwards).

107.17-1b **AMOUNT OF DEDUCTION** - If all the aforesaid conditions are satisfied, then 100 per cent of the profit is deductible for 10 years. The deduction commences from the initial assessment year [*see also paras 107.17-1b¹ and 107.17-1b²*].

107.17-1b¹ *What is initial assessment year* - Initial assessment year, for this purpose, means the assessment year specified by the assessee at his option to be the initial year, not falling beyond the fifteenth* assessment year starting from the previous year in which the enterprise begins operating and maintaining the infrastructure facility.

However, the benefit of deduction is available only for 10 consecutive assessment years falling within a period of fifteenth* assessment years beginning with the assessment year in which an assessee begins operating and maintaining infrastructure facility.

● *Provisions illustrated* - A company which begins operating and maintaining an infrastructure facility (being inland port) during the previous year 2013-14 may choose the initial assessment year as follows—

<i>Initial assessment year as selected by the assessee</i>	<i>Assessment years for which 100 per cent deduction is available under section 80-IA</i>
<i>1</i>	<i>2</i>
<i>Option 1</i> : 2014-15	2014-15 to 2023-24
<i>Option 2</i> : 2015-16	2015-16 to 2024-25
<i>Option 3</i> : 2016-17	2016-17 to 2025-26
<i>Option 4</i> : 2017-18	2017-18 to 2026-27
<i>Option 5</i> : 2018-19	2018-19 to 2027-28
<i>Option 6</i> : 2019-20	2019-20 to 2028-29
<i>Option 7</i> : 2020-21	2020-21 to 2028-29
<i>Option 8</i> : 2021-22	2021-22 to 2028-29
<i>Option 9</i> : 2022-23	2022-23 to 2028-29
<i>Option 10</i> : 2023-24	2023-24 to 2028-29
<i>Option 11</i> : 2024-25	2024-25 to 2028-29
<i>Option 12</i> : 2025-26	2025-26 to 2028-29
<i>Option 13</i> : 2026-27	2026-27 to 2028-29
<i>Option 14</i> : 2027-28	2027-28 and 2028-29
<i>Option 15</i> : 2028-29	2028-29

A taxpayer may select any one of the aforesaid options. However, *options 7 to 15* should be avoided as deduction under these options will be lower than that of *option 6*.

*"Twentieth" if the "infrastructure facility" is a highway project including housing or other activities being an integral part of the highway project and road including toll road, a bridge or a rail system, a water supply project, water treatment system, irrigation project, sanitation and sewerage system or solid waste management system.

107.17-1b² *Housing and other development activities which are integral part of highway project* - By virtue of section 80-IA(6), the amount of deduction available in the case of an undertaking which is engaged in providing housing and other development activities is different. Under section 80-IA(6) the following conditions should be satisfied—

1. Housing or other activities are an integral part of the highway project.
2. Profits are computed on such basis and manner as may be prescribed.
3. Such profit is not liable to tax where the profit has been transferred to a special reserve account and the same is actually utilised for highway project excluding housing and other activities before the expiry of 3 years following the previous year in which such amount was transferred.
4. The amount remaining unutilised shall be chargeable to tax as income of the year in which transfer to reserve account took place.

How to compute profit of housing and other activities which are integral part of highway project - The profits of housing or other activities, which are integral part of a highway project, shall be computed on the basis and manner specified below :

- a. in a case where the annual profits of the housing or other activities which are integral part of a highway project can be arrived at in accordance with the regular method of accounting followed, the profits so arrived at as computed under the provisions of the Act; or
- b. in any other case, the amount of profits arrived at based on the percentage of completion of the activities referred to above during the relevant previous year.

Every assessee shall maintain separate accounts for the above activities and shall submit a certificate* in Form No. 10CCC from a chartered accountant.

● *Provision illustrated* - X Ltd. has constructed a hotel on Delhi Agra highway. Profit from the hotel construction for the previous year 2013-14 is Rs. 80 lakh which is transferred to a special reserve account and, consequently, it is not chargeable to tax. The special reserve account shall be utilised up to March 31, 2017 for highway projects but excluding housing and other activities. If suppose only Rs. 70 lakh is utilised for highway projects up to March 31, 2017, then the unutilised amount of Rs. 10 lakh will become taxable for the previous year 2013-14 (*i.e.*, the assessment year 2014-15).

107.17-1c OTHER POINTS - One should also keep in view the following points —

107.17-1c¹ *Audit report* - The deduction under section 80-IA is admissible only if the accounts of the eligible undertaking have been audited by a chartered accountant, and the audit report duly signed and verified by such accountant is furnished* along with the return of income (Form No. 10CCB).

● A separate report is to be furnished* by each undertaking or enterprise of the assessee claiming deduction under section 80-IA or 80-IB and shall be accompanied by the Profit and Loss Account and Balance Sheet of the undertaking or enterprise as if the undertaking or the enterprise were a distinct entity.

● In the case of an enterprise carrying on the business of developing or operating and maintaining or developing, operating and maintaining an infrastructure facility, the audit report in Form 10CCB shall be accompanied* by a copy of the agreement of the enterprise with the Central Government or the State Government or the local authority for carrying on the business of developing or operating and maintaining or developing, operating and maintaining the infrastructure facility.

● In any other case, the audit report in Form 10CCB shall be accompanied* by a copy of the agreement, approval or permission, as the case may be, to carry on the activity signed or issued by the Central Government or the State Government or the local authority for carrying on the eligible business— Notification No. 240/2002, dated September 6, 2002.

107.17-1c² *Double deduction not possible* - Section 80-IA provides that where deduction is claimed and allowed under section 80-IA, the profits to that extent shall not qualify for deduction for any assessment year under any other provision of Chapter VIA and in no case shall exceed the eligible profit of the industrial undertaking, as the case may be.

107.17-1c³ *Adjustment of losses* - Section 80-IA(5) provides that for the purpose of determining the quantum of deduction under section 80-IA for the assessment year immediately succeeding the initial assessment year or any subsequent assessment year, the profits and gains from the eligible business shall be computed as if such eligible business were the only source of income of the assessee during the previous year relevant to the initial assessment year and to every subsequent assessment year up to and including the assessment year for which the determination is to be made.

For instance, X Ltd. owns two undertakings: A (eligible for the purpose of section 80-IB) and B (not eligible for the purpose of section 80-IB). Date of commencement of production in the two cases is December 10, 2004.

*From April 1, 2014, audit report should be submitted electronically. Provisions pertaining to electronic submission of audit report were not applicable prior to April 1, 2014 (for period prior to April 1, 2014, audit report and other statements/agreement/approval may be retained by the assessee and these may be furnished in original whenever the Assessing Officer wants in assessment proceedings or otherwise).

Profit made by the two units is as follows :

(Rs. in lakh)

	Unit A	Unit B	Income from other sources	Gross total income	Carried forward of loss to the next year
Asst. year 2005-06	(-) 5	(-) 2	–	Nil	(-) 7
Asst. year 2006-07	(-) 12	1	–	Nil	(-) 18
Asst. year 2007-08	(-) 8	5	–	Nil	(-) 21
Asst. year 2008-09	(-) 3	17	–	Nil	(-) 7
Asst. year 2009-10	(-) 1	21	–	13	Nil
Asst. year 2010-11	4	6	–	10	Nil
Asst. year 2011-12	19	12	–	31	Nil
Asst. year 2012-13	14	13	2	29	Nil
Asst. year 2013-14	16	18	–	34	Nil
Asst. year 2014-15	19	(-) 7	6	18	Nil

In the aforesaid case, the “initial previous year” is the previous year 2004-05 (*i.e.*, the year in which production was started). However, no deduction is available under section 80-IB till the assessment year 2009-10 as income from Unit A is negative. The entire loss of Unit A has been set off under sections 70 and 72 till the assessment year 2009-10. There is no loss brought forward from earlier years for the assessment year 2010-11 (or subsequent year).

However, to compute profit eligible for tax holiday under section 80-IA, it is assumed that Unit A is the only unit owned by X Ltd. Consequently, deduction will be available as under :

(Rs. in lakh)

	Asst. year 2010-11	Asst. year 2011-12	Asst. year 2012-13	Asst. year 2013-14	Asst. year 2014-15
Profit of Unit A	4	19	14	16	19
Profit of Unit B	6	12	13	18	(-) 7
Business income	10	31	27	34	12
Income from other sources	–	–	2	–	6
Gross total income (a)	10	31	29	34	18
Less : Deduction under section 80-IB in respect of Unit A					
Current year profit of Unit A	4	19	14	16	19
Less : Notionally brought forward loss from earlier years	-29	-25	-6	Nil	Nil
Balance	-25	-6	8	16	19
Deduction under section 80-IB (it is assumed that deduction is available @ 100%) (*total deduction under sections 80C to 80U cannot exceed gross total income) (b)	Nil	Nil	8	16	18*
Net income [(a) – (b)]	10	31	21	18	Nil

It may be noted that for the assessment year 2014-15 profit of Unit A for the purpose of deduction under section 80-IB will not be reduced by the loss incurred in Unit B.

The aforesaid example explains the provisions regarding deduction available under section 80-IB in cases where in the initial assessment year (and in a few subsequent years) the eligible unit incurs loss. Under section 80-IB (and also under sections 80-IC, 80-ID and 80-IE), the first year in which production is started, is taken as initial previous year. The concept explained with the help of above example is, therefore, equally applicable in sections 80-IC, 80-ID and 80-IE.

Under sections 80-IA and 80-IAB, however, initial assessment year may be selected by the assessee (it may be the first year of commencement of activity or a subsequent year as selected by the assessee for the purpose of claiming deduction under section 80-IA or 80-IAB). Deduction under sections 80-IA and 80-IAB is available from the initial assessment year (selected by the assessee) and not from the first year in which the business is commenced. In such cases, the concept of adjustment of losses discussed above requires some modifications which is explained with the help of another example as follows—

Y Ltd. owns a power generating unit (eligible for deduction under section 80-IA). The business of power generating was started during the financial year 2003-04. However, the company is in the business of manufacturing of chemicals since 1970. The following data is available from income-tax records of the company—

Previous years	Income from power generating unit Rs. (in lakh)	Income from chemical manufacturing Rs. (in lakh)	Interest income taxable under section 56 Rs. (in lakh)
2003-04	(-) 4010	2870	-
2004-05	(-) 4120	9580	-
2005-06	(-) 3570	3740	-
2006-07	(-) 2730	2500	-
2007-08	(-) 102	1800	-
2008-09	(-) 92	3700	-
2009-10	70	3810	-
2010-11	(-) 400	4020	-
2011-12	300	5310	800
2012-13	6080	(-) 210	800
2013-14	7010	7600	800

Y Ltd. is entitled for deduction under section 80-IA at the rate of 100 per cent profit from the activity of power generation. This tax holiday will be available for 10 years. Section 80-IA(2) permits deduction, at the option of assessee, for any ten consecutive assessment years out of fifteen years beginning from the year in which the activity of power generation was commenced. As there is no profit before March 31, 2009, the company has opted for the previous year 2009-10 as the initial previous year for the purpose of claiming the benefit of deduction under section 80-IA.

Since in this case, the initial previous year is the previous year 2009-10, the provisions of section 80-IA will be applicable only from the previous year 2009-10. In other words, from the previous year 2009-10, it will be assumed that only source of income of Y Ltd. is income from generation of power for the purpose of computing the quantum of deduction available under section 80-IA. To put it differently, losses pertaining to the previous year prior to 2009-10 will not be taken into consideration for calculating the amount of deduction under section 80-IA which is available from the previous year 2009-10 onwards—*Mohan Breweries & Distilleries Ltd. v. CIT* [2008] 23 SOT 32 (Chennai)(URO), *Velayudhaswamy Spinning Mills (P.) Ltd. v. CIT* [2010] 231 CTR (Mad.) 368. The taxable income of the Y Ltd. for different assessment years will be as follows—

Previous years	Assessment years	Income from power generating unit Rs. (in lakh)	Income from chemical manufacturing Rs. (in lakh)	Adjustment of brought forward losses under section 72 Rs. (in lakh)	Gross total income Rs. (in lakh)	Deduction under section 80-IA Rs. (in lakh)	Total income Rs. (in lakh)
2003-04	2004-05	(-) 4010	2870	-	-	-	Nil
2004-05	2005-06	(-) 4120	9580	(-) 1140	4320	-	4320
2005-06	2006-07	(-) 3570	3740	-	170	-	170
2006-07	2007-08	(-) 2730	2500	-	-	-	Nil
2007-08	2008-09	(-) 102	1800	(-) 230	1468	-	1468
2008-09	2009-10	(-) 92	3700	-	3608	-	3608
2009-10	2010-11*	70	3810	-	3880	70	3810
2010-11	2011-12	(-) 400	4020	-	3620	-	3620
2011-12	2012-13	300	5310	-	6410**	Nil***	6410
2012-13	2013-14	6080	(-) 210	-	6670**	5980#	690
2013-14	2014-15	7010	7600	-	15410**	7010	8400

*Initial assessment year

**Includes interest income of Rs. 800 lakh taxable under section 56

***It is after adjusting (notionally) the loss of Rs. 400 lakh pertaining to the earlier year.

It is after adjusting (notionally) the balance loss of Rs. 100 lakh out of Rs. 400 lakh pertaining to the earlier year. Notional brought forward of loss under section 80-IA(5) is operative only during the ten year period of deduction commencing from the initial assessment year and not for the period prior to the commencement of initial assessment year. Suppose this subsection is not present, then the deduction for the assessment year 2012-13 would be Rs. 300 lakh. It is nil only because of operation of section 80-IA(5). Similarly, for assessment year 2013-14 deduction under section 80-IA is not Rs. 6080 lakh but it is restricted to Rs. 5980 lakh by reducing balance unabsorbed loss of Rs. 100 lakh.

107.17-1c⁴ *Power of the Income-tax Department to recompute profits* - In the following circumstances, the Assessing Officer has power to ignore the declared profit and to make necessary adjustments so as to arrive at the profits for the purpose of deduction under section 80-IA.

- If any goods held for the purpose of the eligible business is transferred to any other business carried on by the assessee, and *vice versa*, and in either case, the consideration if any for such transfer as recorded in the accounts of the eligible business does not correspond to the market value of such goods as on the date of transfer, profits of the eligible business will be computed as if the transfer in either case had been made at the market value of the goods as on that date. If such a manner of computation is found, in the opinion of the Assessing Officer, to present exceptional difficulties, the Assessing Officer is authorised to compute the profits on such reasonable basis as he may deem fit. This power has been granted to the Assessing Officer with a view to curbing any attempt to under-invoice or over-invoice of goods by the assessee in order to inflate the profits of the eligible business. For this purpose, the expression “market value”^{*} is defined to mean the price that such goods would ordinarily fetch on sale in the open market.

- If it appears to the Assessing Officer that business between the assessee (engaged in eligible business) and any other person is so arranged that the business transacted between them produces to the assessee more than the ordinary profits that might be expected to arise in such eligible business, either due to the close connection between the assessee and that other person or due to any other reason, then the Assessing Officer shall take the amount of profit as may be reasonably deemed to have been derived therefrom.^{*}

107.17-1c⁵ *Consequences of demerger/amalgamation* - If a company which is entitled for deduction under section 80-IA is amalgamated/demerged with another company (before claiming tax holiday for 10 years), the amalgamated company/resulting company can avail the benefit under section 80-IA for the unexpired period of tax holiday (including the previous year in which amalgamation/demerger takes place). However, this facility is available only when transferor-company and transferee-company are Indian companies.

- The aforesaid benefit in the case of section 80-IA is available only when amalgamation/demerger takes place before April 1, 2007.

- The aforesaid benefit in the case of sections 10A, 10AA, 10B, 80-IAB, 80-IB, 80-IC and 80-IE is available irrespective of date of amalgamation or demerger (or even if date of amalgamation/demerger is on or after April 1, 2007).^{**}

107.17-1c⁶ *Consequences of transfer of undertaking* - Where an infrastructure facility is transferred on or after April 1, 1999 by an enterprise which developed such infrastructure facility (*i.e.*, transferor enterprise) to another enterprise (*i.e.*, transferee enterprise) for the purpose of operating and maintaining the infrastructure facility on its behalf in accordance with the agreement with the Central Government, State Government, local authority or statutory body, section 80-IA shall apply to the transferee enterprise as if it were the enterprise to which such section applies and the deduction from profits and gains would be available to such transferee enterprise for the unexpired period during which the transferor enterprise would have been entitled to the deduction, if the transfer had not taken place.

107.17-2 TELECOMMUNICATION SERVICES - The following conditions should be satisfied—

1. It should be a new undertaking [*see* para 107.18-1a¹]. However, this condition introduced by the Finance (No. 2) Act, 2004 will not apply to undertakings, which have started providing telecommunication services prior to April 1, 2004. Therefore, if an undertaking is formed by the transfer of old plant and machinery or splitting up or reconstruction of business already in existence but has started providing telecommunication services prior to April 1, 2004, it will continue to get the tax benefit available under section 80-IA of the Income-tax Act.—Circular No. 5/2005, dated July 15, 2005.

2. It should not be formed by transfer of old plant and machinery [*see* para 107.18-1a²][†].

^{*}Market value or the transaction value for the aforesaid purposes in the case of specified domestic transactions referred to in section 92BA (if aggregate value of such domestic transactions exceed Rs. 5 crore) shall be arm's length price [as defined in section 92F(*ii*)] from the assessment year 2013-14.

[†]Applicable only in respect of an undertaking set up after March 31, 2004.

^{**}In the case of conversion of firm/sole proprietary concern into firm, the benefit of tax holiday can be availed by the transferee for the unexpired period—*ITO v. Advance Valves Global*[2011] 15 taxmann.com 342 (Delhi - Trib.), *CIT v. Mega Packages* [2011] 15 taxmann.com 80 (Punj. & Har.).

3. An undertaking engaged in providing telecommunication services starts providing telecommunication services whether basic or cellular including radio paging, domestic satellite service or network of turning broadband network and internet services and electronic data inter-change service at any time after March 31, 1995 but before March 31, 2005. "Domestic satellite" for this purpose means a satellite owned and operated by an Indian company for providing telecommunication service.

4. From the assessment year 2006-07, return of income should be submitted on or before the due date of submission of return of income given by section 139(1). If return is not submitted or return is submitted belatedly, deduction under this section is not available.

5. Deduction under section 80-IA is not available unless it is claimed in the return of income. In other words, if the assessee fails to make a claim in his return of income of this deduction, the same will not be allowed (applicable from the assessment year 2003-04 onwards).

107.17-2a AMOUNT OF DEDUCTION - If all the aforesaid conditions are satisfied, then deduction is available under section 80-IA as follows —

Assessee-enterprises	% of profit deductible	Period of deduction commencing from the initial assessment year
□ Owned by a company or any other person	100 30	First 5 years Next 5 years

• *Initial assessment year* - Initial assessment year means the assessment year specified by the assessee at his option to be the initial year not falling beyond the fifteenth assessment year starting from the previous year in which the undertaking begins providing telecommunication services [see para 107.17-1b¹ for a detailed study].

107.17-2b OTHER POINTS - One should also keep in view the following points—

1. Audit report [see para 107.17-1c¹].
2. Double deduction is not available [see para 107.17-1c²].
3. Computation of profit [see para 107.17-1c³].
4. Recomputation of profit by the Assessing Officer [see para 107.17-1c⁴].
5. Consequences of demerger/amalgamation [see para 107.17-1c⁵].

107.17-3 INDUSTRIAL PARKS OR SPECIAL ECONOMIC ZONE - An undertaking which develops and operates industrial park or develops a special economic zone must satisfy the following conditions in order to avail the benefit of section 80-IA —

1. It develops and operates or maintains and operates an industrial park or from the assessment year 2002-03 a special economic zone notified for this purpose in accordance with any scheme framed and notified by the Central Government.
2. The industrial park must start operating during April 1, 2006 and March 31, 2011 and it should be notified by the Central Government* under the Industrial Park Scheme, 2008 or the special economic zone must start operating during April 1, 1997 and March 31, 2005.
3. From the assessment year 2006-07, return of income should be submitted on or before the due date of submission of return of income given by section 139(1). If return is not submitted or return is submitted belatedly, deduction under this section is not available.
4. Deduction under section 80-IA is not available unless it is claimed in the return of income. In other words, if the assessee fails to make a claim in his return of income of this deduction, the same will not be allowed (applicable from the assessment year 2003-04 onwards).

107.17-3a AMOUNT OF DEDUCTION - If all the aforesaid conditions are satisfied, 100 per cent of profit is deductible for 10 years commencing from the initial assessment year.

• *Initial assessment year* - Initial assessment year means the assessment year specified by the assessee at his option to be the initial year not falling beyond the fifteenth assessment year starting from the previous year

*For procedure for approval, see Notification No. 3/2008, dated January 8, 2008.

in which the undertaking begins operating developing industrial park [see para 107.17-1b¹ for a detailed study].

107.17-3b OTHER POINTS - One should also keep in view the following points —

1. Audit report [see para 107.17-1c¹].
2. Double deduction is not available [see para 107.17-1c²].
3. Computation of profit [see para 107.17-1c³].
4. Recomputation of profit by the Assessing Officer [see para 107.17-1c⁴].
5. Where an undertaking develops an industrial park on or after April 1, 1999 or develops a special economic zone on or after April 1, 2001 and transfers the operation and maintenance of such industrial parks or special economic zone to another undertaking (*i.e.*, transferee undertaking), the deduction shall be allowed to such transferee undertaking for the remaining period in the ten consecutive assessment years in a manner as if the operation and maintenance were not so transferred to the transferee undertaking.

107.17-4 POWER GENERATION/DISTRIBUTION - The following conditions should be satisfied—

1. *New undertaking* - See para 107.18-1a¹.
2. *Not to be formed by old plant and machinery* - See para 107.18-1a². For the assessment year 2005-06, this condition will not apply in the case of splitting up or reconstruction or reorganisation of State Electricity Boards.
3. *Commencement* - The undertaking must be set up in any part of India for the generation or generation and distribution of power† and it begins the operation at any time during April 1, 1993 and March 31, **2017**. Alternately, it starts transmission or distribution by laying a network of new transmission or distribution lines at any time between April 1, 1999 and March 31, **2017**.
Alternatively, it undertakes substantial renovation and modernisation of the existing transmission or distribution lines at any time during the period commencing on April 1, 2004 and ending on March 31, **2017**. The term “substantial renovation and modernisation” has been defined to mean an increase in the book value of plant and machinery by 50 per cent as compared to book value of such plant and machinery on April 1, 2004.
4. *Return of income* - From the assessment year 2006-07, return of income should be submitted on or before the due date of submission of return of income given by section 139(1). If return is not submitted or return is submitted belatedly, deduction under this section is not available.
5. *Deduction should be claimed in the return of income* - Deduction under section 80-IA is not available unless it is claimed in the return of income. In other words, if the assessee fails to make a claim in his return of income of this deduction, the same will not be allowed (applicable from the assessment year 2003-04 onwards).

107.17-4a AMOUNT OF DEDUCTION - If all the aforesaid conditions are satisfied, 100 per cent of the profit is deductible for 10 years commencing from the initial assessment year.

● *Eligible profit* - Profit which is eligible for deduction under section 80-IA is as follows —

<i>Activity</i>	<i>Profit available for deduction</i>
<ul style="list-style-type: none"> □ Only generation of power □ Generation and distribution of power □ Laying a network of new transmission or distribution lines for starting transmission/distribution of power 	<ul style="list-style-type: none"> Profit from generation of power Profit from generation and distribution of power Profit derived from laying of such network of new lines for transmission or distribution

● *Initial assessment year* - Initial assessment year means the assessment year specified by the assessee at his option to be the initial year not falling beyond the fifteenth assessment year starting from the previous year in which the undertaking generates power or commences transmission or distribution of power [see para 107.17-1b¹ for a detailed study].

107.17-4b OTHER POINTS - One should also keep in view the following points —

1. Audit report [see para 107.17-1c¹].
2. Double deduction is not available [see para 107.17-1c²].

†‘Power’ and ‘energy’ are synonymous, which can be in several types and forms, be it heat, which is steam or mechanical or electrical, wind or be it thermal - *CIT v. Maharaja Shree Umaid Mills Ltd.* [2009] 29 SOT 278 (Jp.).

3. Computation of profit [*see* para 107.17-1c³].
4. Recomputation of profit by the Assessing Officer [*see* para 107.17-1c⁴].
5. Consequences of demerger/amalgamation [*see* para 107.17-1c⁵].

107.17-5 RECONSTRUCTION OF POWER UNIT - The provisions are given below :—

• *Conditions* - The following conditions should be satisfied—

1. It should be owned by an Indian company and set up for reconstruction or revival of a power generating plant.
2. It should be formed before November 30, 2005 with majority equity participation by public sector companies for the purposes of enforcing the security interest of the lenders to the company owning the power generating plant and such Indian company is notified before December 31, 2005 by the Central Government.
3. Such undertaking begins to generate or transmit or distribute power before March 31, 2011.
4. *Return of income* - From the assessment year 2006-07, return of income should be submitted on or before the due date of submission of return of income given by section 139(1). If return is not submitted or return is submitted belatedly, deduction under this section is not available.
5. *Deduction should be claimed in the return of income* - Deduction under section 80-IA is not available unless it is claimed in the return of income. In other words, if the assessee fails to make a claim in his return of income of this deduction, the same will not be allowed (applicable from the assessment year 2003-04 onwards).

• *Amount of deduction* - *See* para 107.17-1b.

• *Other points* - *See* para 107.17-1c.

107.17-6 CROSS-COUNTRY NATURAL GAS DISTRIBUTION - For the assessment years 2008-09 and 2009-10* deduction under section 80-IA will be available to any undertaking carrying on the business of laying and operating a cross-country natural gas distribution network, including pipelines and storage facilities being an integral part of such network, if the following conditions are satisfied—

1. It is owned by a company registered in India or by a consortium of such companies or by an authority or a board or a corporation established or constituted under any Central or State Act.
2. It has been approved by the Petroleum and Natural Gas Regulatory Board and notified by the Central Government.
3. One-third of its total pipeline capacity is available for use on common carrier basis by any person other than the assessee or an associated person.
4. It starts functioning on or after April 1, 2007.
5. It fulfils such other conditions as may be prescribed.
6. The undertaking should not be formed by way of reconstruction or splitting up or by transfer to a new business of old plant and machinery (subject to certain exceptions).
7. Return of income should be submitted on or before the due date of submission of return of income.
8. Deduction under section 80-IA is not available unless it is claimed in the return of income. In other words, if the assessee fails to make a claim in his return of income of this deduction, the same will not be allowed.

• *Deduction* - If the above conditions are satisfied, 100 per cent deduction will be available for 10 consecutive assessment years out of 15 years beginning from the year in which an undertaking lays and begins to operate the cross-country natural gas distribution network.

• *Associated person* - For this purpose “associated person” in relation to the assessee means—

1. A person who participates directly or indirectly or through one or more intermediaries in the management or control or capital of the assessee.
2. A person who holds, directly or indirectly, shares carrying not less than 26 per cent of the voting power in the assessee.
3. A person who appoints more than half of the Board of directors or members of the governing board, or one or more executive directors or executive members of the governing board of the assessee.
4. A person who guarantees not less than 10 per cent of the total borrowings of the assessee.

*The benefit of deduction under section 80-IA will not be available to the business of laying and operating a cross-country natural gas distribution network from the assessment year 2010-11. Any person availing this incentive can claim the benefit of deduction under section 35AD [*see* para 48.14].

107.17A Deductions in respect of profits and gains by an undertaking or enterprise engaged in development of Special Economic Zone [Section 80-IAB] - Section 80-IAB has been inserted to give deduction to the developers of special economic zone from the assessment year 2006-07.

107.17A-1 CONDITIONS - The following conditions should be satisfied—

1. The taxpayer is a developer of a special economic zone.
2. The gross total income of the taxpayer includes profits and gains derived by an undertaking from any business of developing a special economic zone.
3. Such special economic zone is notified on or after April 1, 2005.
4. The books of account of the taxpayer are audited.
5. From the assessment year 2006-07, return of income should be submitted on or before the due date of submission of return of income given by section 139(1). If return is not submitted or return is submitted belatedly, deduction under this section is not available.
6. Deduction under section 80-IAB is not available unless it is claimed in the return of income. In other words, if the assessee fails to make a claim in his return of income of this deduction, the same will not be allowed.

107.17A-2 AMOUNT OF DEDUCTION - If the above conditions are satisfied, the taxpayer can claim 100 per cent deduction in respect of the aforesaid profit.

- *Period of Deduction* - The aforesaid deduction is available for 10 consecutive assessment years. The deduction may be claimed, at the option of the taxpayer, for any 10 consecutive assessment years out of 15 years beginning from the year in which the special economic zone has been notified by the Central Government.

- *Transfer of Undertaking* - If a taxpayer who develops a special economic zone on or after April 1, 2005 (“transferor”) transfers the operation/maintenance of such zone to another developer (“transferee”), then deduction shall be allowed to the transferee for the remaining period of 10 years as if the operation and maintenance were not so transferred. Similar rule will be applicable in the case of amalgamation of an Indian company which has developed a special economic zone with another Indian company.

107.17A-3 OTHER POINTS - One should also keep in view the following points—

1. The profits and gains from the eligible business shall be computed as if such eligible business were the only source of income of the assessee during the relevant assessment year.
2. The Assessing Officer has power to recompute profit in some cases. These cases are given by section 80-IA(8)/(10).
3. Where any amount of profits and gains is claimed and allowed as deduction under section 80-IAB for any assessment year, deduction to the extent of such profits and gains shall not be allowed under sections 80HH to 80RRB and shall in no case exceeds profits and gains of such eligible business.

107.18 Deduction under section 80-IB in respect of profits and gains from certain industrial undertakings other than infrastructure development undertakings - Deduction under section 80-IB is available to different industrial undertakings as follows —

- a. business of an industrial undertaking [*see* para 107.18-1];
- b. operation of ship [*see* para 107.18-2];
- c. hotels [*see* para 107.18-3];
- d. industrial research [*see* para 107.18-4];
- e. production of mineral oil [*see* para 107.18-5];
- f. developing and building housing projects [*see* para 107.18-6];
- g. integrated handling, storage and transportation of food grains units [*see* para 107.18-7];
- h. multiplex theatres [*see* para 107.18-8];
- i. convention centre [*see* para 107.18-9];
- j. operating and maintaining hospital in rural area [*see* para 107.18-10]; and
- k. hospital located in certain areas [*see* para 107.18-11].

107.18-1 INDUSTRIAL UNDERTAKING - The provisions of section 80-IB as (applicable to an industrial undertaking) are given below —

107.18-1a CONDITIONS - To claim deduction under section 80-IB, an industrial undertaking (*i.e.*, an undertaking which is mainly engaged in the business of the construction of ships or in the manufacture or processing of goods or in mining) must satisfy the following conditions :

107.18-1a¹ *It should be a new undertaking* - The industrial undertaking is not formed by splitting up, or the reconstruction, of a business already in existence. However, if a new industrial undertaking is set up in an old building, deduction shall be admissible as this section provides for new undertaking and does not provide for new building.

• *Exception* - The aforesaid condition of “new undertaking” is not applicable where the business is re-established, reconstructed or revived by the same assessee after the business of any industrial undertaking carried on by him in India is discontinued due to extensive damage to, or destruction of, any building, machinery, plant or furniture owned by the assessee (and used for the purpose of such business) as a direct result of (i) flood, typhoon, hurricane, cyclone, earthquake or other convulsion of nature, or (ii) riot or civil disturbance, or (iii) accidental fire or explosion, or (iv) action by any enemy or action taken in combating an enemy (whether with or without a declaration of war).

107.18-1a² *It should not be formed by transfer of machinery or plant previously used for any purpose* - It is not formed by a transfer to a new business of machinery and plant previously used for any purpose.

• *Two exceptions* - In the two cases given below, the aforesaid rule is not applicable—

□ *20 per cent old machinery is permitted* - If the value of the transferred assets does not exceed 20 per cent of the total value of the machinery or plant used in the business, this condition is deemed to have been satisfied.

□ *Second-hand imported machinery is treated as new* - Any machinery or plant which was used outside India by any person other than the assessee shall not be regarded as machinery or plant previously used for any purpose, if the following conditions are fulfilled :

1. Such machinery or plant was not, at any time prior to the date of the installation by the assessee, used in India.

2. Such machinery or plant is imported into India from any country outside India.

3. No deduction on account of depreciation in respect of such machinery or plant has been allowed or is allowable under the Act in computing the total income of any person for any period prior to the date of the installation of the machinery or plant by the assessee.

107.18-1a³ *It should not manufacture or produce articles specified in the Eleventh Schedule* - It manufactures or produces any article or thing (not being an article or thing specified in the list in the Eleventh Schedule) or operates cold storage plant, in any part of India.

• *Exception 1* - From the assessment year 2005-06, an industrial unit in Jammu and Kashmir should not manufacture or produce articles specified in Part C of the Thirteenth Schedule.

• *Exception 2* - Small-scale undertakings or an undertaking in a backward State can manufacture any goods/article. Deduction is admissible to all small-scale industrial undertakings and those undertakings which are specified in para 107.18-1a^{4a} *infra* even if they are engaged in the production of articles listed in the Eleventh Schedule.

Small scale industrial undertaking - An industrial undertaking in which the investment in fixed assets in plant and machinery whether held on ownership terms or on lease, or by hire purchase does not exceed Rs. 1 crore* (on the last day of the previous year) is a small-scale industrial undertaking.

□ No small-scale or ancillary industrial undertaking referred to above shall be subsidiary of, or owned or controlled by other industrial undertaking.

□ In calculating the value of plant and machinery the following shall be excluded namely : (i) the cost of equipment such as tools, jigs, dies, moulds and spare parts for maintenance and the cost of consumable stores; (ii) the cost of installation of plant and machinery ; (iii) the cost of research and development equipment and pollution control equipment ; (iv) the cost of generating sets, extra transformer, etc., installed by the undertaking as per the regulations of the State Electricity Board ; (v) the bank charges and service paid to the National Small Industries Corporation or the State Small Industries Corporation ; (vi) the cost involved in procurement or installation of cables, wiring, bus bars, electrical control panels (not those mounted or

*Rs. 5 crore in some cases.

individual machines), oil circuit breakers/miniature circuit breakers, etc., which are necessarily to be used for providing electrical power to the plant and machinery/safety measures ; (vii) the cost of gas producer plant ; (viii) transportation charges (excluding of taxes, i.e., sales tax, excise, etc.) for indigenous machinery from the place of manufacturing to the site of the factory ; (ix) charges paid for technical know-how for erection of plant and machinery; (x) cost of such storage tanks which store raw materials finished products only and are linked with the manufacturing process ; and (xi) cost of fire fighting equipments.

In the case of imported machinery, the following shall be included in calculating the value, namely : (i) import duty (excluding miscellaneous expenses as transportation from the port to the site of the factory, demurrage paid at the port ; (ii) the shipping charges ; (iii) customs clearance charges ; and (iv) sales tax.

107.18-1a⁴ *It must start manufacturing between a specified period - See para 107.18-1b.*

107.18-1a⁵ *It should employ 10/20 workers - In a case where the industrial undertaking manufactures or produces articles or things, the undertaking employs 10 or more workers in a manufacturing process carried on with the aid of power, or employs 20 or more workers in a manufacturing process without the aid of power. This condition is applicable only for “industrial undertaking” and not for cold storage plant, ship or hotel.*

107.18-1a⁶ *Return of income - From the assessment year 2006-07, return of income should be submitted on or before the due date of submission of return of income given by section 139(1). If return is not submitted or return is submitted belatedly, deduction under this section is not available.*

107.18-1a⁷ *Deduction should be claimed in the return of income - Deduction under section 80-IB is not available unless it is claimed in the return of income. In other words, if the assessee fails to make a claim in his return of income of this deduction, the same will not be allowed (applicable from the assessment year 2003-04 onwards). However, section 80-IB does not require that the claim should be filed only in the original return. Such claim can be made even in the revised return—*Parmeshwar Cold Storage (P.) Ltd. v. CIT* [2011] 16 taxmann.com 88 (Ahd. - Trib.).*

107.18-1b AMOUNT OF DEDUCTION - An industrial undertaking can claim deduction at the rates given in the table *infra*. The table also highlights conditions already mentioned in paras 107.18-1a³ and 107.18-1a⁴. However, no deduction under these provisions will be applicable in cases covered by section 80-IC from the assessment year 2004-05.

	Small scale industrial undertaking	Industrial undertaking (including cold storage) set up in an industrial backward State [Eighth Schedule]	Industrial undertaking (including cold storage) set up in Category A notified backward district	Industrial undertaking (including cold storage) set up in Category B notified backward district	Cold chain facility for agricultural produce	Any other
1. Nature of articles to be produced	Any	Any [see Note 2]	Other than those given in Eleventh Schedule	Other than those given in Eleventh Schedule	Cold chain facility for agricultural produce	Other than those given in Eleventh Schedule
2. Time-limit for commencement of production or operation	Between April 1, 1991 and March 31, 2002	Between April 1, 1993 and March 31, 2004 (March 31, 2012 in the case of Jammu and Kashmir)	Between October 1, 1994 and March 31, 2004	Between October 1, 1994 and March 31, 2004	Between April 1, 1999 and March 31, 2004	Between April 1, 1991 and March 31, 1995
3. Amount of deduction (period of deduction commences from initial assessment year)						
3.1 Owned by a company	30% for first 10 years	100% for first 5 years and 30% for next 5 years [see Note 1 <i>infra</i>]	100% for first 5 years and 30% for next 5 years	100% for first 3 years and 30% for next 5 years	100% for first 5 years and 30% for next 5 years	30% for first 10 years
3.2 Owned by a co-operative society	25% for first 12 years	100% for first 5 years and	100% for first 5 years and	100% for first 3 years and	100% for first 5 years and	25% for first 12 years

	<i>Small scale industrial undertaking</i>	<i>Industrial undertaking (including cold storage) set up in an industrial backward State [Eighth Schedule]</i>	<i>Industrial undertaking (including cold storage) set up in Category A notified backward district</i>	<i>Industrial undertaking (including cold storage) set up in Category B notified backward district</i>	<i>Cold chain facility for agricultural produce</i>	<i>Any other</i>
3.3 Owned by any other person	25% for first 10 years	25% for next 7 years [see Note 1 <i>infra</i>] 100% for first 5 years and 25% for next 5 years [see Note 1 <i>infra</i>]	25% for next 7 years 100% for first 5 years and 25% for next 5 years	25% for next 9 years 100% for first 3 years and 25% for next 5 years	25% for next 7 years 100% for first 5 years and 25% for next 5 years	25% for first 10 years

Notes—

1. In the case of an industrial undertaking operating in the North-Eastern Region (*i.e.*, the region comprising of the States of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland and Tripura), the amount of deduction is 100 per cent of the profit and deduction is available for the first 10 years commencing from the initial assessment year. This deduction is, however, available only in the case of such industries in the North-Eastern Region as are notified by the Central Government up to the assessment year 2003-04. No deduction will be available from the assessment year 2004-05 in respect of undertaking eligible for deduction under section 80-IC.

2. From the assessment year 2005-06, an industrial undertaking in the State of Jammu and Kashmir should not manufacture or produce cigarettes/cigars, distilled and brewed alcoholic drinks, aerated branded beverages and their concentrates.

• *What is initial assessment year* - “Initial assessment year” means the assessment year relevant to the previous year in which the industrial undertaking begins to manufacture or produce articles or things, or to operate its cold storage plant or plants.

The “article” in this context is the final or end-product for which the undertaking is set up to manufacture. For instance, if a small-scale industrial undertaking starts manufacture/production on December 19, 2001, the initial assessment year will be 2002-03, and it will be eligible for deduction (subject to the satisfaction of the prescribed conditions in every year) for the assessment years 2002-03 to 2011-12 (in the case of co-operative society for the assessment years 2002-03 to 2013-14).

107.18-1c OTHER POINTS - One should keep in view the following points —

1. Audit report [see para 107.17-1c¹].
2. Double deduction is not available [see para 107.17-1c²].
3. Computation of profit [see para 107.17-1c³].
4. Recomputation of profit by the Assessing Officer [see para 107.17-1c⁴].
5. Consequences of demerger/amalgamation [see para 107.17-1c⁵].

107.18-2 OPERATION OF SHIP - Now-a-days, this deduction is not available.**107.18-3 HOTEL INDUSTRY** - Provisions of section 80-IB as applicable to hotel industry are given below—**107.18-3a CONDITIONS TO BE FULFILLED IN THE CASE OF SPECIFIED HOTELS IN SPECIFIED AREA** - The following conditions one has to satisfy—

1. The business of the hotel is not formed by the splitting up, or the reconstruction, of a business already in existence or by the transfer to a new business of a building previously used as a hotel or of any machinery or plant previously used for any purpose.
2. The business of the hotel is owned and carried on by an Indian company with a paid-up capital of Rs. 5,00,000 or more.
3. The business of the hotel is located in a hilly area or a rural area or a place of pilgrimage or such other place as the Central Government may (having regard to the need for development of infrastructure for tourism in any place and other relevant considerations) specify for the purpose.
4. It starts functioning at any time during the period April 1, 1990 and March 31, 1994. Alternatively, it starts functioning (at a place other than Calcutta, Chennai, Delhi and Mumbai) at any time during April 1, 1997 and March 31, 2001.

5. From the assessment year 2006-07, return of income should be submitted on or before the due date of submission of return of income given by section 139(1). If return is not submitted or return is submitted belatedly, deduction under this section is not available.

6. The hotel is for the time being approved by the prescribed authority.¹

7. Deduction under section 80-IB is not available unless it is claimed in the return of income. In other words, if the assessee fails to make a claim in his return of income of this deduction, the same will not be allowed (applicable from the assessment year 2003-04 onwards).

● *Approval by the prescribed authority* - For the aforesaid purpose a hotel shall be approved by the prescribed authority if the following conditions are fulfilled, namely :

- a. such hotel is located in an area or place specified above ;
- b. there are not more than 300 hotel rooms of 3-star category and above in the aggregate, in areas or places specified above within the jurisdiction of the revenue sub-division in which the hotel is located ;
- c. in case the hotel is located in a place where there is need for development of infrastructure for tourism such place has been specified by the Central Government under section 80-IB on the recommendations of the Department of Tourism.

● *Hilly area* - The term "hilly area" means any area located at a height of 1000 metres or more above the sea level.

● *Place of pilgrimage* - A "place of pilgrimage" means a place where any temple, mosque, gurudwara, church or other place of public worship of renown throughout any State or States is situated.

"A place of pilgrimage" is not required to be specified by the Central Government. Consequently, any place satisfying the aforesaid test, comes within the term "place of pilgrimage".

● *Rural area* - It means :

- a. an area outside the limits of a municipality, cantonment board, etc., and which has a population of less than 10,000 ;
or
- b. an area which is not within such distance* from the local limits of such municipality, etc., as the Central Government may notify.

107.18-3b CONDITIONS TO BE FULFILLED IN THE CASE OF NON-SPECIFIED HOTELS - One has to satisfy the following conditions :

1. The business of the hotel is not formed by the splitting up or the reconstruction of a business already in existence or by the transfer to a new business of a building previously used as a hotel or of any machinery or plant previously used for any purpose.

2. The business of the hotel is owned and carried on by a company registered in India with the paid-up capital of not less than Rs. 5,00,000.

3. The hotel is located in any place or located in a place other than a place referred to in para 107.18-3a.

4. The hotel starts functioning between April 1, 1991 and March 31, 1995. Alternatively, it starts functioning (at a place other than Calcutta, Chennai, Delhi and Mumbai) at any time during April 1, 1997 and March 31, 2001.

5. It is approved by the prescribed authority¹.

6. From the assessment year 2006-07, return of income should be submitted on or before the due date of submission of return of income given by section 139(1). If return is not submitted or return is submitted belatedly, deduction under this section is not available.

1. Director-General (Income-tax Exemptions) in concurrence with the Director-General in the Directorate General of Tourism, Government of India.

*The distance notified by the Government is given below—

<i>Name of the municipality or cantonment board</i>	<i>Details of the area</i>
(1)	(2)
Mumbai, Calcutta, Delhi, Hyderabad, Chennai and New Delhi	Areas up to a distance of 15 kilometres in all directions from the municipal limits, or, as the case may be, cantonment limits.
Ahmedabad, Bangalore, Kanpur, Lucknow, Nagpur and Pune	Areas up to a distance of 12 kilometres in all directions from the municipal limits, or, as the case may be, cantonment limits.
Agra, Allahabad, Amritsar, Bhopal, Cochin, Coimbatore, Dhanbad, Gwalior, Indore, Jabalpur, Jaipur, Jamshedpur, Ludhiana, Madurai, Patna, Salem, Sholapur, Srinagar, Surat, Tiruchirapally, Trivandrum, Varanasi (Benaras) and Vadodara (Baroda)	Areas up to a distance of 10 kilometres in all directions from the municipal limits, or, as the case may be, cantonment limits.
Any other municipality or cantonment board	Areas up to a distance of 8 kilometres in all directions from the municipal limits, or, as the case may be, cantonment limits.

107.18-3c AMOUNT OF DEDUCTION - Deduction is admissible at the rates given below—

<i>Assessee</i>	<i>% of profit deductible</i>	<i>Period of deduction commencing from the initial assessment year [i.e., relevant to the previous year in which the hotel starts functioning]</i>
<input type="checkbox"/> Hotel approved under section 80-IB(7)(a) located in hilly area or rural area or a place of pilgrimage or in a notified area [see para 107.18-3a]	50	First 10 years
<input type="checkbox"/> Any other hotel [see para 107.18-3b]	30	First 10 years

107.18-3d OTHER POINTS - One should keep in view the following points —

1. Double deduction is not available [see para 107.17-1c²].
2. Computation of profit [see para 107.17-1c³].
3. Recomputation of profit by the Assessing Officer [see para 107.17-1c⁴].
4. Consequences of demerger/amalgamation [see para 107.17-1c⁵].

107.18-4 COMPANIES ENGAGED IN INDUSTRIAL RESEARCH - Section 80-IB is applicable if the following conditions are satisfied—

1. The taxpayer is a company registered in India.
2. Such company has its main object the scientific and industrial research and development.
3. It is for the time being approved by the prescribed authority (i.e., Secretary, Department of Scientific and Industrial Research).
4. From the assessment year 2006-07, return of income should be submitted on or before the due date of submission of return of income given by section 139(1). If return is not submitted or return is submitted belatedly, deduction under this section is not available.
5. Deduction under section 80-IB is not available unless it is claimed in the return of income. In other words, if the assessee fails to make a claim in his return of income of this deduction, the same will not be allowed.

107.18-4a AMOUNT OF DEDUCTION - If all the aforesaid conditions are satisfied, the following is deductible—

	<i>If the company is approved by the prescribed authority at any time before April 1, 1999</i>	<i>If the company is approved by the prescribed authority after March 31, 2000 but before April 1, 2007</i>
Amount of deduction	100 per cent of profit from such business	100 per cent of profit from such business
Period of deduction	5 years beginning with the initial ¹ assessment year	10 years beginning with the initial ¹ assessment year

107.18-4b OTHER POINTS - One should also keep in view the following points—

1. Double deduction is not available [see para 107.17-1c²].
2. Computation of profit [see para 107.17-1c³].
3. Recomputation of profit by the Assessing Officer [see para 107.17-1c⁴].
4. Consequences of demerger/amalgamation [see para 107.17-1c⁵].

1. Initial assessment year means the assessment year relevant to the previous year in which the company is approved by the prescribed authority.

107.18-5 MINERAL OILS - One should satisfy the following conditions —

1. It should be a new undertaking [see para 107.18-1a¹]. An *Explanation* has been inserted so as to clarify (with retrospective effect from the assessment year 2000-01) that for this purpose, all blocks licensed under a single contract, which has been awarded under the New Exploration Licencing Policy announced by the Government of India *vide* Resolution No. O-19018/22/95-ONG.DO.VL, dated February 10, 1999 or has been awarded in pursuance of any law for the time being in force or has been awarded by Central or a State Government in any other manner, shall be treated as a single “undertaking”.

2. It should not be formed by transfer of machinery or plant previously used for any purpose [see para 107.18-1a²].

3. It should commence commercial production as follows —

	<i>Commencing production of mineral oil</i>	<i>Commencing refining of mineral oil</i>	<i>Commencing production of natural gas*</i>
Undertaking located in North-Eastern Region**	Before April 1, 1997	—	—
Undertaking located anywhere in India	After March 31, 1997***	After September 30, 1998 but before April 1, 2012	On or after April 1, 2009

*In blocks licensed under the VIII Round of bidding for award of exploration contracts under the New Exploration Licencing Policy announced by the Government of India *vide* Resolution No. O-19018/22/95-ON.GD.OVL, dated February 10, 1999 or in blocks licensed under the IV Round of bidding for award of exploration contracts for Coal Bed Methane blocks.

**North-Eastern Region comprises of the States of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim and Tripura.

***However, it will not apply to blocks licensed under a contract awarded after March 31, 2011 under the New Exploration Licencing Policy announced by the Central Government (*vide* Resolution No. O-19018/22/95-ONG.DO.VL, dated February 10, 1999) or in pursuance of any law for the time being in force or by the Central or a State Government in any other manner.

4. It should employ 10/20 workers [see para 107.18-1a⁵].

5. From the assessment year 2006-07, return of income should be submitted on or before the due date of submission of return of income given by section 139(1). If return is not submitted or return is submitted belatedly, deduction under this section is not available.

6. Deduction under section 80-IB is not available unless it is claimed in the return of income. In other words, if the assessee fails to make a claim in his return of income of this deduction, the same will not be allowed (applicable from the assessment year 2003-04 onwards).

107.18-5a AMOUNT OF DEDUCTION - 100 per cent of the profit is deductible for the first 7 years commencing with the year in which the undertaking commences commercial production of mineral oil or refining of mineral oil.

107.18-5b OTHER POINTS - One should also keep in view the following points —

1. Audit report [see para 107.17-1c¹].

2. Double deduction is not available [see para 107.17-1c²].

3. Computation of profit [see para 107.17-1c³].

4. Recomputation of profit by the Assessing Officer [see para 107.17-1c⁴].

5. Consequences of demerger/amalgamation [see para 107.17-1c⁵].

107.18-6 DEVELOPING AND BUILDING HOUSING PROJECTS - An undertaking engaged in developing and building housing projects shall be eligible to claim deduction under section 80-IB. By virtue of *Explanation 10* to this section, any undertaking which executes the housing project as a works contract

awarded by any other person (including Central or State Government) is not eligible for deduction under section 80-IB(10)†. To claim deduction, one should satisfy the following conditions—

<i>Condition 1</i>	The project should be approved by a local authority before March 31, 2008.	
<i>Condition 2</i>	The size of the plot of land is a minimum of one acre.	
<i>Condition 3</i>	The undertaking commences development and construction of the housing project after September 30, 1998 and it should complete construction*—	
	a. where housing project has been approved by local authority before April 1, 2004	: On or before March 31, 2008
	b. where housing project has been approved during 2004-05	: Within 4 years from the end of the financial year in which the housing project is approved by the local authority
	c. where housing project has been approved on or after April 1, 2005	: Within 5 years from the end of the financial year in which the housing project is approved by the local authority
<i>Condition 4</i>	The built-up area of the shops and other commercial establishments included in the housing project shall not exceed 5 per cent of the aggregate built-up area of the housing project or 2,000 sq. ft., whichever is less. With effect from the assessment year 2010-11, the built-up area of the shops and other commercial establishments included in the housing project should not exceed 3 per cent of the total built-up area of the housing project or 5,000 sq.ft., whichever is more.	
<i>Condition 5</i>	The built-up area of each residential unit should be subject to the following maximum limit -	
	<i>Place where residential unit is situated</i>	<i>Minimum size of the plot of land should be one acre and the maximum built-up area of each residential unit should be as given below—</i>
	• Within the cities of Delhi and Mumbai	1,000 sq. ft.
	• Within 25 kilometres from the local limits of Delhi and Mumbai	1,000 sq. ft.
	• At any other place	1,500 sq. ft.
<i>Condition 6</i>	If the allottee is a person other than individual, not more than one residential unit will be allotted to the same allottee. If the allottee is an individual, no other unit in the housing project should be allotted to the same individual and/or any of the following persons—(a) spouse or minor children of such individual; (b) the Hindu undivided family in which such individual is the karta; and (c) any person representing such individual, the spouse or minor children of such individual or the Hindu undivided family in which such individual is the karta (applicable from the assessment year 2010-11).	
<i>Condition 7</i>	From the assessment year 2006-07, return of income should be submitted on or before the due date of submission of return of income given by section 139(1). If return is not submitted or return is submitted belatedly, deduction under this section is not available.	
<i>Condition 8</i>	Deduction should be claimed in the return of income.	

Notes:

1. *Conditions two and three* are not applicable in the case of a housing project, carried out in accordance with a scheme framed by the Central Government or a State Government for reconstruction or redevelopment of existing buildings in areas declared as slum areas under any law and such scheme is notified by the Board in this behalf.

*There is no further condition that such construction and development of the housing project should also be on a land owned by an assessee undertaking.

†*Explanation* to section 80-IB(10) is applicable only in the case of a works contractor. It does not have any role to play in the case of a developer of a housing project under a development agreement. Generally, in the case of such development agreement, developer does not own land. But certainly such developer is not a works contractor. Consequently, a developer of a housing project can claim the benefit of section 80-IB(10) even if land is not owned by him - *CIT v. Shreeji Developers* [2013] 218 Taxman 100 (Guj.), *CIT v. Sanghvi & Doshi Enterprise* [2013] 214 Taxman 463 (Mad.), *CIT v. Mahadev Developers* [2013] 214 Taxman 130 (Guj.), *CIT v. Prathama Developers* [2013] 214 Taxman 131 (Guj.), *CIT v. Vishal Construction Co.* [2013] 217 Taxman 96 (Guj.), *CIT v. Shree Ram Construction* [2013] 215 Taxman 17 (Guj.).

2. The expression "built-up area" has been defined to mean the inner measurements of the residential unit at the floor level, including the projections and balconies, as increased by the thickness of the walls but not including the common areas shared with other residential units.

3. The date of issue of completion certificate is taken as date of completion of construction.

4. It is beneficial to obtain approval for each residential block separately—*CIT v. Brigade Enterprises (P.) Ltd.* [2009] 28 SOT 7 (Bang.).

5. On perusal of provisions of section 80-IB(10), one finds that it is not a mandatory requirement to fully utilize permissible FSI—*Radhe Developers v. ITO* [2008] 23 SOT 420 (Ahd.).

6. Merely because some flats are larger than the specified limit given above, an assessee will not lose benefit in its entirety. In other words, only with reference to flats which are more than prescribed area, the assessee would lose benefit, whereas he or it would be entitled to claim deduction in respect of residential units which are within the specified limit—*SJR Builders v. CIT* [2010] 3 ITR (Trib.) 569 (Bang.).

7. In order to allow assessee's claim for deduction under section 80-IB(10)(b), area of one acre available for development of housing project includes area required to be set apart for amenities as per norms of local body—*Bunty Builders v. ITO* [2010] 127 ITD 286 (Pune).

8. Independent residential units have to be treated as separate housing projects for the purpose of deduction under section 80-IB(10) if other conditions are satisfied. The housing project does not necessarily have to be various group of buildings constructed on a particular land but it can also be a particular building or any building which is a part of the large project for purpose of section 80-IB(10)—*Mudhit Madanlal Gupta v. CIT* [2011] 9 taxmann.com 235 (Mum. - ITAT).

9. Commercial use of residential units by purchaser would not disentitle the developer to benefit of section 80-IB(10)—*Manju Gupta v. CIT* [2011] 15 taxmann.com 287 (Mum. - Trib.).

10. Area of parking space should not be combined with area of residential unit so as to work out total area for purpose of finding out whether it exceeds specified limit mentioned in section 80-IB(10)—*Nikhil Associates v. ITO* [2011] 46 SOT 301 (Ahd.).

11. Where the assessee has completed housing project well before final date but local authority, for technical reasons, grants business use permission after such date, the assessee would be entitled for the benefit of deduction under section 80-IB - *CIT v. Tarnetar Corporation* [2012] 26 taxmann.com 180 (Guj.).

12. If a developer is ineligible for deduction under section 80-IB(10) because of size of plot being less than prescribed size and makes good deficiency later on, he is eligible for deduction under section 80-IB(10) -- *Baba Promoters & Developers v. ITO* [2012] 54 SOT 89 (Pune).

13. Open land and garden area cannot be included while computing total area of dwelling unit, which should be less than 1500 square feet area - *Baba Promoters & Developers v. ITO* [2012] 54 SOT 89 (Pune).

14. If profits of an eligible project can be clearly ascertained from audited books of account maintained by the developer, the Assessing Officer cannot refuse to give deduction under section 80-IB merely on the plea that the assessee has not maintained separate books of account - *CIT v. SMR Builders (P.) Ltd.* [2012] 54 SOT 105 (Hyd.).

107.18-6a AMOUNT OF DEDUCTION - If all the aforesaid conditions are satisfied 100 per cent of the profit derived in any previous year relevant to any assessment year from such housing project is deductible.

107.18-6b OTHER POINTS - One should also keep in view the following points—

1. Audit report [*see* para 107.17-1c¹].

2. Double deduction is not available [*see* para 107.17-1c²].

3. Computation of profit [*see* para 107.17-1c³].

4. Recomputation of profit by the Assessing Officer [*see* para 107.17-1c⁴].

5. Consequences of demerger/amalgamation [*see* para 107.17-1c⁵].

6. Even if some of the units in housing complex exceeded the area limit given above, relief under section 80-IB must be given on pro-rata basis—*CIT v. Sheth Developers (P.) Ltd.* [2009] 33 SOT 277 (Mum.). In other words, if an assessee has developed a housing project wherein majority of residential units have a built-up area of less than 1,500 sq. ft., i.e., limit prescribed by section 80-IB(10), and only a few residential units are exceeding built-up area of 1,500 sq. ft., there would be no justification to disallow entire deduction under section 80-IB(10)—*ITO v. Air Developers* [2009] 123 TTJ (Nag.) 959.

7. Deduction under section 80-IB(10) is available in respect of profits of a housing project as a whole, and, as such, it is not relevant as to what is portion of profits which can be said to be attributable to residential units (if the area used for shops and establishment does not exceed the limit given above)—*Brahma Associates v. CIT* [2009] 30 SOT 155 (Pune)(SB).

8. There is no merit in the view that deduction under section 80-IB(10) is not available to incomplete projects. A taxpayer having housing project and fulfilling all other requirements of section 80-IB(10) can adopt 'project-percentage method' to arrive at eligible profits for claim of prescribed deduction subject to preliminary satisfaction of the Assessing Officer about year of completion of project—*B. K. Pate Enterprises v. CIT* [2009] 125 TTJ (Pune) 974. Even the Board has clarified that the deduction can be claimed on a year-to-year basis where the assessee is showing profit from partial completion of the project in every year. In case the project is not completed within the specified time-limit of 4 or 5 years as started above, the deduction granted to the assessee in the earlier years should be withdrawn—Instruction No. 4/2009, dated June 30, 2009.

107.18-7 *UNDERTAKING ENGAGED IN THE BUSINESS OF PROCESSING, PRESERVATION AND PACKAGING OF FRUITS AND VEGETABLES OR INTEGRATED HANDLING, STORAGE AND TRANSPORTATION OF FOOD GRAINS [SEC. 80-IB(11A)]* - An undertaking deriving profit from the integrated business of handling, storage and transportation of food grains is eligible for tax holiday. From the assessment year 2005-06, it has been extended to the business of processing, preservation and packaging of fruits or vegetables. From the assessment year 2010-11, the tax holiday benefit has been extended to the business of processing, preservation and packaging of meat and meat products or poultry or marine or dairy products, if it begins to operate such business on or after April 1, 2009.

- From the assessment year 2006-07, return of income should be submitted on or before the due date of submission of return of income given by section 139(1).
- Deduction should be claimed in the return of income.

107.18-7a AMOUNT OF DEDUCTION - The amount of deduction available under section 80-IB is as follows—

<i>Enterprises</i>	<i>% of profit deductible</i>	<i>Period of deduction commencing from the initial assessment year</i>
<input type="checkbox"/> Owned by a company	100	First 5 years
	30	Next 5 years
<input type="checkbox"/> Owned by any other person	100	First 5 years
	25	Next 5 years

107.18-7b OTHER POINTS - One should also keep in view the following points—

1. Audit report [*see* para 107.17-1c¹].
2. Double deduction is not available [*see* para 107.17-1c²].
3. Computation of profit [*see* para 107.17-1c³].
4. Recomputation of profit by the Assessing Officer [*see* para 107.17-1c⁴].
5. Consequences of demerger/amalgamation [*see* para 107.17-1c⁵].

107.18-8 *MULTIPLEX THEATRES*- "Multiplex theatres" means a building of a prescribed area, comprising of two or more cinema theatres and commercial shops of such size and number and having such other facilities and amenities as may be prescribed [*see* Rule 18DB for prescribed facilities, etc.]. The following conditions should be satisfied in the case of multiplex theatre—

1. Such multiplex theatre is constructed at any time during April 1, 2002 and March 31, 2005.
2. The business of the multiplex is not formed by the splitting up, or the reconstruction, of a business already in existence or by the transfer to a new business of any building or of any machinery or of plant previously used for any purpose.
3. The assessee furnishes alongwith the return of income, the report of an audit in prescribed form from a chartered accountant, certifying that the deduction has been correctly claimed.
4. Such multiplex theatre is not located at a place within the municipal jurisdiction of Kolkata, Chennai, Delhi or Mumbai.
5. From the assessment year 2006-07, return of income should be submitted on or before the due date of submission of return of income given by section 139(1). If return is not submitted or return is submitted belatedly, deduction under this section is not available.
6. Deduction should be claimed in the return of income.

107.18-8a AMOUNT OF DEDUCTION - If the aforesaid conditions are satisfied, 50 per cent of the profits and gains derived from the business of building, owning and operating a multiplex theatre is deductible from the assessment year 2003-04 for a period of 5 consecutive years beginning from the initial assessment year.

Initial assessment year, for this purpose, is the assessment year relevant to the previous year in which a cinema hall, being a part of the said multiplex theatre, starts operating on a commercial basis.

107.18-8b OTHER POINTS - One should also keep in view the following points —

1. Audit report [*see* para 107.17-1c¹, Form No. 10CCBA].
2. Double deduction is not available [*see* para 107.17-1c²].
3. Computation of profit [*see* para 107.17-1c³].
4. Recomputation of profit by the Assessing Officer [*see* para 107.17-1c⁴].
5. Consequences of demerger/amalgamation [*see* para 107.17-1c⁵].

107.18-9 CONVENTION CENTRE - "Convention centre" means a building of a prescribed area comprising of convention halls to be used for the purpose of holding conferences and seminars, being of such size and number and having such other facilities and amenities, as may be prescribed.

The following conditions should be satisfied in order to avail deduction under section 80-IB—

1. Such convention centre is constructed at any time during April 1, 2002 and March 31, 2005.
2. The business of the convention centre is not formed by the splitting up, or the reconstruction, of a business already in existence or by the transfer to a new business of any building or of any machinery or plant previously used for any purpose.
3. The assessee furnishes alongwith the return of income, the report of an audit in prescribed form from a chartered accountant, certifying that the deduction has been correctly claimed.
4. From the assessment year 2006-07, return of income should be submitted on or before the due date of submission of return of income given by section 139(1). If return is not submitted or return is submitted belatedly, deduction under this section is not available.
5. Deduction should be claimed in the return of income.

107.18-9a AMOUNT OF DEDUCTION - If the aforesaid conditions are satisfied, 50 per cent of the profits and gains derived by the assessee from the business of building, owning and operating a convention centre is deductible from the assessment year 2003-04 for a period of 5 consecutive years beginning from the initial assessment year.

Initial assessment year means the assessment year relevant to the previous year in which the convention centre starts operating on a commercial basis.

107.18-9b OTHER POINTS - One should keep in view the following points —

1. Audit report [*see* para 107.17-1c¹, Form No. 10CCBB].
2. Double deduction is not available [*see* para 107.17-1c²].
3. Computation of profit [*see* para 107.17-1c³].
4. Recomputation of profit by the Assessing Officer [*see* para 107.17-1c⁴].
5. Consequences of demerger/amalgamation [*see* para 107.17-1c⁵].

107.18-10 OPERATING AND MAINTAINING A HOSPITAL IN RURAL AREA - In order to claim the deduction the following conditions should be satisfied—

1. The assessee owns an undertaking deriving profits from the business of operating and maintaining a hospital in a rural area.
2. Such hospital is constructed at any time during October 1, 2004 and ending on March 31, 2008. For this purpose a hospital shall be deemed to have been constructed on the date on which a completion certificate in respect of such construction is issued by the concerned local authority.
3. The hospital has at least 100 beds for patients.

4. The construction of the hospital is in accordance with the regulations, for the time being in force, of the local authority.

5. From the assessment year 2006-07, return of income should be submitted on or before the due date of submission of return of income given by section 139(1). If return is not submitted or return is submitted belatedly, deduction under this section is not available.

6. Deduction should be claimed in the return of income.

107.18-10a AMOUNT OF DEDUCTION - If the above conditions are satisfied, 100 per cent of the profits and gains of such business is deductible from the assessment year 2005-06 for a period of 5 consecutive assessment years, beginning with the initial assessment year (*i.e.*, the assessment year relevant to the previous year in which the undertaking begins to provide medical services).

107.18-10b OTHER POINTS - One should also keep in view the following points—

1. Audit report in Form No. 10CCBC [*see* para 107.17-1c¹].

2. Double deduction is not available [*see* para 107.17-1c²].

3. Computation of profit [*see* para 107.17-1c³].

4. Recomputation of profit by the Assessing Officer [*see* para 107.17-1c⁴].

5. Consequences of demerger/amalgamation [*see* para 107.17-1c⁵].

107.18-11 OPERATING AND MAINTAINING HOSPITAL IN CERTAIN AREAS - With a view to encouraging investment in hospitals in non-metro cities, sub-section (11C) has been inserted in section 80-IB with effect from the assessment year 2009-10.

107.18-11a CONDITIONS - The benefit of deduction will be available if the following conditions are satisfied—

1. Location	The hospital is located anywhere in India, other than excluded area. The excluded area shall mean (or in other words, the hospital should not be located in) an area comprising the urban agglomerations of Greater Mumbai, Delhi, Kolkata, Chennai, Hyderabad, Bangalore and Ahmedabad, the districts of Faridabad, Gurgaon, Ghaziabad, Gautam Budh Nagar and Gandhinagar and the city of Secunderabad. The area comprising an urban agglomeration shall be the area included in such urban agglomeration on the basis of the 2001 census.
2. Construction	The hospital is constructed at any time during April 1, 2008 and March 31, 2013. For this purpose, a hospital shall be deemed to have been constructed on the date on which a completion certificate in respect of such construction is issued by the local authority concerned.
3. Commencement	The hospital should start functioning at any time during April 1, 2008 and March 31, 2013.
4. Number of beds	The hospital has at least 100 beds for patients.
5. Municipal bye-laws	The construction of the hospital is in accordance with the regulation or bye-laws of the local authority.
6. Audit report	The taxpayer should submit an audit report in Form No. 10CCBD certifying that deduction has been correctly claimed†.
7. Return of income	Return of income should be submitted on or before the due date of submission of return of income given by section 139(1). If return is not submitted or return is submitted belatedly, deduction under this section is not available.
8. Deduction should be claimed in the return of income	Deduction should be claimed in the return of income. If the assessee fails to make a claim in his return of income of this deduction, the same will not be allowed.

†From April 1, 2014, audit report should be submitted electronically. Provisions pertaining to electronic submission of audit report were not applicable prior to April 1, 2014 (for period prior to April 1, 2014, audit report may be retained by the assessee and it may be furnished in original whenever the Assessing Officer wants to examine it in assessment proceedings or otherwise).

107.18-11b DEDUCTION - If the above conditions are satisfied, 100 per cent of the profits and gains derived from the business of hospital shall be deductible for a period of 5 assessment years, beginning with the initial assessment year (*i.e.*, the assessment year relevant to the previous year in which the business of hospital starts functioning).

107.18-11c OTHER POINTS - One should keep in view the following points —

1. Double deduction is not available [*see* para 107.17-1c¹].
2. Computation of profit [*see* para 107.17-1c³].
3. Recomputation of profit by the Assessing Officer [*see* para 107.17-1c⁴].
4. Consequences of demerger/amalgamation [*see* para 107.17-1c⁵].

107.19 Deduction in respect of certain undertakings in Himachal Pradesh, Sikkim, Uttaranchal and North-Eastern States [Sec. 80-IC] - Section 80-IC has been inserted from the assessment year 2004-05.

107.19-1 CONDITIONS - One has to satisfy the following conditions to claim deduction under section 80-IC—

107.19-1a NOT FORMED BY SPLITTING UP OR RECONSTRUCTION OF EXISTING BUSINESS - The industrial undertaking is not formed by splitting up, or the reconstruction, of a business already in existence.

The aforesaid condition of “new undertaking” is not applicable where the business is re-established, reconstructed or revived by the same assessee after the business of any industrial undertaking carried on by him in India is discontinued due to extensive damage to, or destruction of, any building, machinery, plant or furniture owned by the assessee (and used for the purpose of such business) as a direct result of (i) flood, typhoon, hurricane, cyclone, earthquake or other convulsion of nature, or (ii) riot or civil disturbance, or (iii) accidental fire or explosion, or (iv) action by any enemy or action taken in combating an enemy (whether with or without a declaration of war).

107.19-1b NOT FORMED BY TRANSFER OF OLD PLANT AND MACHINES - *See* para 107.18-1a².

107.19-1c INDUSTRIAL UNDERTAKING SHOULD BE SET UP IN CERTAIN SPECIAL CATEGORY OF STATES - The industrial undertaking should be set up in states given in *column 1* of the table given in para 107.19-2. Moreover, it should be in a specified area [*see column 3* of the table]

107.19-1d MANUFACTURE/PRODUCTION OF SPECIFIED GOODS - The industrial undertaking should manufacture/produce specified goods/articles [*see columns (3) and (4)* of the table given in para 107.19-2]

107.19-1e COMMENCEMENT - The industrial undertaking must begin to manufacture or produce article or thing within the time limit given in *column (2)* of the table in para 107.19-2. In the case of an existing unit, substantial expansion should take place during the time-limit given in *column (2)* of the table.

107.19-1f AUDIT - The books of account the taxpayer should be audited and the audit report should be submitted† along with the return of income.

107.19-1g RETURN OF INCOME - From the assessment year 2006-07, return of income should be submitted on or before the due date of submission of return of income given by section 139(1). If return is not submitted or return is submitted belatedly, deduction under this section is not available.

107.19-1h DEDUCTION SHOULD BE CLAIMED IN THE RETURN OF INCOME - Deduction under section 80-IC is not available unless it is claimed in the return of income.

107.19-2 AMOUNT OF DEDUCTION - If the aforesaid conditions are satisfied, then deduction is available under section 80-IC as follows—

†From April 1, 2014, audit report should be submitted electronically. Provisions pertaining to electronic submission of audit report were not applicable prior to April 1, 2014 (for period prior to April 1, 2014, audit report may be retained by the assessee and it may be furnished in original whenever the Assessing Officer wants to examine it in assessment proceedings or otherwise).

State in which the industrial undertaking is set up	Time limit for commencement of production or substantial expansion [see para 107.19-2a]	Nature of articles to be produced if industrial undertaking is set up (or completes substantial expansion) in the industrial zone of the relevant State given in section 80-IC(2)(a) [see para 107.19-2b]	Nature of article to be produced if industrial undertaking is set up (or completes substantial expansion) in any area of the relevant State	Amount deductible [see also paras 107.19-2c and 107.19-2d]
(1)	(2)	(3)	(4)	(5)
Sikkim	December 23, 2002 to March 31, 2007**	Any article but other than those given in the Thirteenth Schedule [Part A]	Any article given in Fourteenth Schedule [Part B]	100% of profit and gains of the industrial undertaking for 10 years commencing from the initial asset
Himachal Pradesh or Uttaranchal	January 7, 2003 to March 31, 2012	Any article but other than those given in the Thirteenth Schedule [Part B]	Any article given in Fourteenth Schedule [Part C]	100% of the profit and gains of the industrial undertaking for the first 5 years commencing with the initial assessment year and 25% (30% in the case of a company) for the next 5 years
North-Eastern State [i.e., Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland and Tripura]	December 24, 1997 to March 31, 2007**	Any article but other than those given in the Thirteenth Schedule***	Any article given in Fourteenth Schedule [Part A]	100% of profit and gain of industrial undertaking for 10 years commencing from the initial assessment year

107.19-2a WHAT IS SUBSTANTIAL EXPANSION - For the aforesaid purpose substantial expansion is calculated as under—

1. Find out the book value of plant and machinery (before depreciation) as on the first day of the previous year in which substantial expansion is taken.
2. Find out the amount of investment in plant and machinery for expansion purposes.
3. Find out $(2) \div (1)$

If the proportion computed under (3)(*supra*) is 50 per cent or more, then it is taken as substantial expansion.

107.19-2b INDUSTRIAL ZONES GIVEN UNDER SECTION 80-IC(2) - If an industrial undertaking has begun or begins to manufacture or produce any article or thing (not being any article or thing specified in the Thirteenth Schedule), or manufactures or produces any article or thing (not being any article or thing specified in the Thirteenth Schedule) and undertakes substantial expansion during the period given in column 2 of the table (*supra*), then such industrial undertaking should be in the following industrial zones notified by the Board for the relevant State—

- a. Export Processing Zone; or
- b. Integrated Infrastructure Development Centre; or

** See also para 107.19B.

*** Any article can be produced as Thirteenth Schedule has not provided negative list for North-Eastern States.

- c. Industrial Growth Centre; or
d. Industrial Estate; or
e. Industrial Park; or
f. Software Technology Park; or
g. Industrial Area; or
h. Theme Park

These areas shall be notified by the Board in accordance with the notified scheme of the Central Government.

107.19-2c PERIOD OF DEDUCTION NOT TO EXCEED 10 YEARS - No deduction shall be allowed to any undertaking or enterprise under section 80-IC, where the total period of deduction inclusive of the period of deduction under this section or under second proviso to section 80-IB(4) or under section 10C, as the case may be, exceeds 10 assessment years.

107.19-2d INITIAL ASSESSMENT YEAR - "Initial assessment year" means the assessment year relevant to the previous year, in which the undertaking or the enterprise begins to manufacture or produce articles or things, or commences operation or completes substantial expansion.

107.19-3 OTHER POINTS - One should also keep in view the following points—

1. *Double deduction not allowed* - In computing the total income of the assessee, no deduction shall be allowed under sections 80C to 80U or section 10A or 10B, in relation to the profits and gains of the undertaking or enterprise.
2. *Adjustment of loss* - See para 107.17-1c³.
3. *Computation of profit* - See para 107.17-1c⁴.
4. *Consequences of merger/demerger* - See para 107.17-1c⁵.

107.19-E1 The following data is given in respect of X Ltd. (owning industrial Unit A), Y Ltd. (owning industrial unit B) and Z Ltd. (owning industrial unit C). These units are in operation since 1986 and are engaged in production of articles given in the Fourteenth Schedule. To increase the installed capacity, the three units are expanded as follows—

	Unit A	Unit B	Unit C
Expansion 1			
Date of commencement	April 10, 2011	April 10, 2010	June 10, 2010
Date of completion	January 7, 2012	March 12, 2011	March 24, 2012
Expansion 2			
Date of commencement	—	May 5, 2011	—
Date of completion	—	January 31, 2012	—

The amount of investment is given below :

	X Ltd. (Unit A) Rs. in lakh	Y Ltd. (Unit B) Rs. in lakh	Z Ltd. (Unit C) Rs. in lakh
Book value of plant and machinery (before depreciation) on April 1, 2010 (a)	84	84	84
Investment in plant and machinery during February 2011 (b)	Nil	20	20
[(b) as % of (a)]	[0%]	[23.81%]	[23.81%]
Book value of plant and machinery on April 1, 2011 (c)	84	1,04	1,04
Investment in plant and machinery during June 2011 (d)	42	22	22
[(d) as % of (c)]	[50%]	[21.15%]	[21.15%]
Book value on April 1, 2012 (e)	1,26	1,26	1,26

•

In the three cases given above, book value of plant and machinery on April 1, 2010 is Rs. 84 lakh. During April 1, 2010 and March 31, 2012, additional investment of Rs. 42 lakh (which is 50% of Rs. 84 lakh) is made in plant and machinery. In the case of X Ltd. the entire expansion is completed in the previous year 2011-12. However, in the case of Y Ltd. the same

investment is made for the purpose of 2 different expansions during 2 different years. In the case of Z Ltd. one expansion is completed in 2 years.

Consequently, investment made by X Ltd. during 2011-12 will be termed as substantial expansion and profit of Unit A will be qualified for deduction. Y Ltd. cannot claim any deduction under section 80-IC, as investments made by it during one year for one expansion is less than 50% of the book value of plant and machinery.

Z Ltd. can claim the benefit of deduction, as one expansion is completed in 2 different years and total investment of Rs. 42 lakh in plant and machinery is not less than 50 per cent of the investment in plant and machinery (before depreciation) on the first day of the previous year in which expansion work is started.

Amount of deduction in the case of X Ltd. or Z Ltd. is as follows —

	Percentage of profits of Unit A or Unit C deductible if Unit A or Unit C is situated in		
	Himachal Pradesh or Uttarakhand [deduction under section 80-IC]	North-Eastern State [deduction under section 80-IE]	Rest of India
<i>If no deduction is claimed in respect of Unit A or Unit C under section 80-IB (2nd proviso) or 10C</i>			
For the assessment years 2012-13 to 2016-17	100%	100%	Nil
For the assessment years 2017-18 to 2021-22	30% ¹	100%	Nil
From the assessment year 2022-23 onwards	Nil	Nil	Nil

Notes—

1. It is 25% if Unit A is owned by a non-corporate entity.

2. No other deduction will be allowed to X Ltd. and Z Ltd. under sections 10A, 10B and 80C to 80U if deduction is claimed under section 80-IC or section 80-IE.

107.19A Deduction in respect of profits and gains from business of hotels/convention centres in NCR area [Sec. 80-ID, applicable from the assessment year 2008-09 onwards] - Section 80-ID has been inserted with effect from the assessment year 2008-09.

• **Conditions** - Section 80-ID is applicable if the following conditions are satisfied—

1. The taxpayer engaged in the business of hotel located in a specified area given below. Alternatively, the taxpayer is engaged in the business of building, owning and operating a convention centre located in specified area given below—

Source of income	Construction	Specified area	Applicable from assessment year
2/3/4 star hotel	Constructed and started functioning during April 1, 2007 and July 31, 2010	National capital territory of Delhi and Faridabad, Gurgaon, Gautam Budh Nagar and Ghaziabad	Assessment year 2008-09 onwards
2/3/4 star hotel at a World heritage site	Constructed and started functioning during April 1, 2008 and March 31, 2013	Districts of Agra, Jalgaon, Aurangabad, Kancheepuram, Puri, Bharatpur, Chhatarpur, Thanjavur, Bellary, South 24 Parganas (excluding areas falling within the Kolkata Urban Agglomeration), Chamoli, Raisen, Gaya, Bhopal, Panchmahal, Kamrup, Goalpara, Nagaon, North Goa, South Goa, Darjeeling and Nilgiri	Assessment year 2009-10 onwards
Convention centre	Constructed during April 1, 2007 and July 31, 2010	National capital territory of Delhi and Faridabad, Gurgaon, Gautam Budh Nagar and Ghaziabad	Assessment year 2008-09 onwards

2. The aforesaid business is not formed by the splitting up, or the reconstruction, of a business already in existence [subject to a few exceptions - see para 107.18-1a¹].

3. The aforesaid business is not formed by the transfer to a new business of machinery or plant previously used for any purpose [subject to a few exceptions - see para 107.18-1a²].

4. Audit report should be submitted[†] along with the return of income.
5. Return of income is submitted on or before the due date of submission of return of income given under section 139(1) [see para 118.3].
6. Deduction under section 80-ID is not available unless it is claimed in the return of income.
 - *Amount of deduction* - If the above conditions are satisfied, 100 per cent of the profit and gains derived from the aforesaid business is deductible for five consecutive assessment years beginning from the initial assessment year. Initial assessment year for this purpose means the assessment year relevant to the previous year in which the business of the hotel starts functioning or the previous year in which the convention centre starts operating on a commercial basis.

107.19B Deduction in respect of certain undertakings in North-Eastern States [Sec. 80-IE] - Section 80-IE is applicable from the assessment year 2008-09.

- *Conditions* - The following conditions should be satisfied—
 1. The taxpayer begins manufacture or production of goods or undertakes substantial expansion during April 1, 2007 and March 31, 2017. Alternatively, the taxpayer has begun to provide eligible services during April 1, 2007 and March 31, 2017. However, deduction under this section is not available in respect of manufacture or production of tobacco, pan masala, plastic carry bags of less than 20 microns or goods produced by petroleum oil and gas refineries. Eligible services for this purpose are hotel (2-star or above), nursing home (25 beds or more), old age homes, vocational training institutes for hotel management, catering and food crafts, entrepreneurship development, nursing and paramedical, civil aviation related training, fashion designing and industrial training, IT related training centres, IT hardware manufacture units and biotechnology.
 2. The aforesaid activity takes place in any North-Eastern States (*i.e.*, Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim and Tripura).
 3. The aforesaid business is not formed by the splitting up, or the reconstruction, of a business already in existence [subject to a few exceptions - see para 107.18-1a¹].
 4. The aforesaid business is not formed by the transfer to a new business of machinery or plant previously used for any purpose [subject to a few exceptions - see para 107.18-1a²].
 5. Audit report should be submitted[†] along with the return of income.
 6. Return of income is submitted on or before the due date of submission of return of income given under section 139(1).
 7. Deduction under section 80-IE is not available unless it is claimed in the return of income.
 - *Amount of deduction* - If the aforesaid conditions are satisfied 100 per cent of profit from the aforesaid business/services shall be deductible for 10 years beginning with the assessment year relevant to the previous year in which the undertaking begins to manufacture/produce article or things or complete substantial expansion. Substantial expansion for this purpose means increase in the investment in the plant and machinery by at least 25 per cent of the book value of plant and machinery (before taking depreciation in any year), as on the first day of the previous year in which the substantial expansion is undertaken.
 - *Other points* - If deduction is claimed and allowed under the aforesaid provisions, the taxpayer will not be able to avail any deduction under sections 10A, 10AA, 10B, 10BA, 80C to 80U in relation to profits and gains of the above noted undertaking. Moreover, no deduction shall be allowed to an undertaking under section 80-IE where the total period of deduction under section 10C, second proviso to section 80-IB(4), section 80-IC and section 80-IE exceeds 10 assessment years.

107.20 Deduction in respect of profits and gains from the business of collecting and processing of biodegradable waste [Sec. 80JJA, applicable from the assessment year 1999-2000] - Section 80JJA has been inserted with effect from the assessment year 1999-2000. Deduction under section 80JJA is available where the gross total income of an assessee includes any profits and gains derived from the business of

[†]From April 1, 2014, audit report should be submitted electronically. Provisions pertaining to electronic submission of audit report were not applicable prior to April 1, 2014 (for period prior to April 1, 2014, audit report may be retained by the assessee and it may be furnished in original whenever the Assessing Officer wants to examine it in assessment proceedings or otherwise).

collecting†, processing and treating of bio-degradable waste for generating power or producing bio-fertilizers, bio-pesticides or other biological agents or for producing bio-gas or making pellets or briquettes for fuel or organic manure. Deduction under section 80JJA is not available unless it is claimed in the return of income (applicable from the assessment year 2003-04 onwards).

• *Amount of deduction* - The amount of deduction for different assessment years is as follows—

From the assessment year 2000-01 onwards - The whole of the profits and gains of the above activities shall be deductible for a period of five consecutive assessment years beginning with the assessment year relevant to the previous year in which such business commences.

For the assessment year 1999-2000 - The whole of the profits and gains from the above activities or Rs. 5 lakh, whichever is less, is deductible.

• *Other points* - The following points should be noted—

1. For the purpose of claiming deduction under section 80JJA, business of collecting of bio-degradable waste should be done by an assessee as a part of his business activities. If such activity is done by job work customers, the assessee would not be entitled to deduction—*CIT v. Padma S. Bora*[2010] 133 TTJ (Pune) 108.

2. Benefits of section 80JJA are available in respect of profits and gains derived from the manufacturing of fuel briquettes from bagasse generated by sugar factories—*CIT v. Smt. Padma S. Bora*[2010] 133 TTJ (Pune) 108.

107.21 Deduction in respect of employment of new workmen [Sec. 80JJAA, applicable from the assessment year 1999-2000] - Section 80JJAA has been inserted to encourage employment with effect from the assessment year 1999-2000.

107.21-1 CONDITIONS - The following conditions should be satisfied to avail deduction under section 80JJAA—

1. The taxpayer is an Indian company.

2. Income of the taxpayer includes any profits and gains derived from any industrial undertaking engaged in the manufacture or production of article or thing.

3. The industrial undertaking is not formed by splitting up or reconstruction of an existing undertaking or amalgamation with another industrial undertaking.

4. The assessee furnishes* along with the return of income the report of a chartered accountant, giving such particulars in the report as may be prescribed [Form No. 10DA].

5. Deduction under section 80JJAA is not available unless it is claimed in the return of income (applicable from the assessment year 2003-04 onwards).

107.21-2 AMOUNT OF DEDUCTION - The amount of deduction is equal to 30 per cent of “additional wages” paid to the new “regular workmen” employed by the assessee in the previous year. The deduction is available for three assessment years including the assessment year relevant for the previous year in which such employment is provided.

• *Modified provisions applicable from the assessment year 2014-15* - Provisions of section 80JJAA have been modified from the assessment year 2014-15 so as to provide that the deduction shall be available to an Indian company deriving profits from manufacture of goods in its factory. The deduction shall be of an amount equal to 30 per cent of additional wages paid to the new regular workmen employed by the assessee in such factory, in the previous year, for three assessment years including the assessment year relevant to the previous year in which such employment is provided. Moreover, deduction will not be available if the factory is hived off or transferred from another existing entity or acquired by the assessee-company as a result of amalgamation with another company.

• *Meaning of workman* - For the aforesaid purpose, “workman” means any person employed in any industry to do any manual, unskilled, skilled, technical, clerical or supervisory work but does not include the following—

a. a person who is in Air Force, Military or Navy, or who is in Police service ; or

b. a person who is employed in managerial or administrative capacity ; or

c. a person who is employed in a supervisory capacity and draws wages exceeding Rs. 1,600 per month.

*From April 1, 2014, audit report should be submitted electronically. Provisions pertaining to electronic submission of audit report were not applicable prior to April 1, 2014 (for period prior to April 1, 2014, audit report may be retained by the assessee and it may be furnished in original whenever the Assessing Officer wants to examine it in assessment proceedings or otherwise).

† It is incorrect to state that “collection” means collecting free of charge and not by purchasing the same. The word ‘collecting’ means to gather; to fetch. It is a neutral word and does not mean collection for consideration or collection without consideration. If an assessee collects bagasse from sugar factories (bagasse is a waste of a sugar factory and it is bio-degradable waste) after having made payment for the same, he is qualified to claim deduction under section 80JJA—*CIT v. Padma S. Bora* [2013] 214 Taxman 505/29 taxmann.com 230 (Bom.).

- *Meaning of regular workman* - For the aforesaid purpose, “regular workman” does not include the following—
 - a. a casual workman ; or
 - b. a workman employed for contract labour ; or
 - c. any other workman employed for a period of less than 300 days during the previous year.
- *Meaning of additional wages* - For the aforesaid purpose, “additional wages” has been defined as follows:

<i>In the case of a new undertaking</i>	<i>In the case of an existing undertaking</i>
It means the wages paid to new “regular workmen” in excess of 100 “workmen” employed during the year	It means the wages paid to new “regular workmen” in excess of 100 “workmen” employed during the year
-	Additional wages shall be <i>nil</i> if the increase in number of “regular workmen” employed during the year is less than 10 per cent of the existing number of “workmen” employed in the undertaking as on the last day of the preceding year.

107.21-3 POINTS TO BE NOTED - The following points should be noted—

- For the above purpose, every employee is not a “workman” and every workman is not a “regular workman”.
- Deduction under section 80JJAA is available for three assessment years only. For the first time it is available in the year in which new “regular workmen” are employed and then it is available in the next two assessment years. Deduction is, however, available only if the relevant conditions are satisfied.
- Deduction is available under section 80JJAA on the basis of number of “workmen” and “regular workmen”. Hereinafter all employees in an undertaking are grouped in the following categories (the categorization has been done only for the purpose of discussing the impact of section 80JJAA in this book)—

<i>Category</i>	<i>Nature of employment</i>
A	Employees employed in managerial or administrative capacity. It also includes employees employed in supervisory capacity and drawing salary exceeding Rs. 1,600 per month
B	It includes casual workmen and workmen employed through contract labour (but not coming under category A)
C	Other workmen (not coming under categories A and B) if employed for less than 300 days during the previous year
D	Other workmen (not coming under categories A and B) if employed for 300 days or more than 300 days during the previous year

“Regular workmen” are those employees who come under Category D. Employees under Categories B, C and D are “workmen”. In other words, Categories B and C employees are “workmen” but they are not “regular workmen”.

- Deduction under section 80JJAA in the case of a new undertaking is available as follows—
 1. First find out whether number of “workmen” (*i.e.*, category B + C + D) employed during the previous year is more than 100.
 2. If yes, then find out wages paid to new “regular workmen” (*i.e.*, category D) in excess of 100 workmen employed during the year.
 3. 30 per cent of the wages determined in (2) (*supra*) is the amount of deduction under section 80JJAA.
- Deduction under section 80JJAA in the case of an existing undertaking is available as follows—
 1. First find out whether number of “workmen” (*i.e.*, category B + C + D) employed during the previous year is more than 100.
 2. If yes, then find out number of regular workmen (*i.e.*, category D) newly employed during the year and whether it is equal to or more than 10 per cent of the existing number of workmen (*i.e.*, category B + C + D) employed in the undertaking on the last day of the preceding year.
 3. If yes, then find out wages paid to new “regular workmen” (*i.e.*, category D) in excess of 100 workmen employed during the year.
 4. 30 per cent of the wages determined in (3)(*supra*) is the amount of deduction under section 80JJAA.

107.21-E1 X Ltd. is an Indian company. It owns an industrial undertaking which started production during 2012-13. On March 31, 2013, it has 89 workmen out of which 20 are casual workmen. On June 1, 2013, the company appoints

30 regular workmen (*i.e.*, Category D) (wages being Rs. 2,700 per month). Find out the amount of deduction under section 80JJAA for the assessment year 2014-15.

X Ltd. owns an existing industrial undertaking. 30% of wages payable to newly appointed “regular workmen” (*i.e.*, Category D) in excess of initial 100 workmen would be the amount of deduction under section 80JJAA. No deduction is, however, available if number of newly appointed regular workmen is lower than 10% of the strength of workmen as on the last day of the preceding year. In this case, the company has 89 workmen on March 31, 2013. 10% of it comes to 8.9. In other words, deduction under section 80JJAA is not available if number of newly appointed “regular workmen” (*i.e.*, Category D) is 8 or less than 8 (such number should be 9 or more than 9). In this case, the company has appointed 30 regular workmen during the previous year 2013-14. Therefore, deduction is available under section 80JJAA. However, no deduction is available in respect of wages payable to initial 100 workmen.

89 workmen as on April 1, 2013	No deduction under section 80JJAA
11 regular workmen appointed on June 1, 2013	No deduction under section 80JJAA
19 regular workmen appointed on June 1, 2013	Deduction would be available under section 80JJAA

Therefore, the amount deductible is Rs. 1,53,900 (30% of Rs. 2,700 × 10 months × 19 regular workmen). Besides, wages payable to all 119 workmen would be deductible under section 37(1).

107.22 Deduction in respect of interest on certain securities, dividends, etc. [Sec. 80L] - No deduction under section 80L is available from the assessment year 2006-07. The amount of deduction available to an individual/HUF up to the assessment year 2005-06 is as follows :

107.22-1 ELIGIBLE INCOME - The following income were subject to deduction under section 80L :

- Interest on a Government security as defined under section 2(2) of Public Debt Act.*
- Interest on National Savings Certificates VI and VII Issues.
- Interest on National Savings Certificates VIII Issue.
- Interest on debentures/bonds issued by a co-operative society or any other notified institutions (including a public sector company).
- Interest on deposits under notified National Deposit Scheme.
- Interest on deposits under the National Savings Scheme, 1992.
- Interest on deposits under Post Office (Time Deposits) and Post Office (Recurring Deposits) Schemes.
- Interest on deposits under the Post Office (Monthly Income Account) Rules, 1987.
- Dividends on shares in any Indian company [not applicable for the assessment years 1998-99 to 2002-03 and assessment year 2004-05 onwards¹].
- Interest on units in the Unit Trust of India [not applicable for the assessment years 2000-01 to 2002-03 and assessment year 2004-05 onwards¹].
- Income in respect of Mutual Funds** [not applicable for the assessment years 2000-01 to 2002-03 and assessment year 2004-05 onwards¹].
- Interest on deposits with a banking company and co-operative bank and with effect from the assessment year 1984-85 interest on deposits with an approved bank [*i.e.*, Industrial Development Bank of India *vide* Notification No. 86(E), dated February 29, 1984].
- Interest on deposits with a financial corporation engaged in providing long-term industrial finance in India and approved by the Central Government. (Approval is not required with effect from the assessment year 2000-01).
- Interest on deposits with State Housing Boards.
- Interest on deposits with a co-operative society of which the assessee is a member.
- Dividends on shares in a co-operative society.
- Interest on deposits made under the Compulsory Deposit (Income-tax Payers) Act, 1974 and the Additional Emoluments (Compulsory Deposits) Act, 1974.

* “Government security” under section 2(2) of the Public Debt Act, 1944 means—

(a) a security, created and issued by the Government for the purpose of raising public loan, and having one of the following forms, namely :

(i) stock transferable by registration in the books of the Bank ; or
(ii) a promissory note payable to order; or
(iii) a bearer bond payable to bearer; or
(iv) a form prescribed in this behalf ;

(b) any other security created and issued by the Government in such form and for such of the purposes of this Act as may be prescribed.

**For complete list, see *Taxmann’s Direct Taxes Circulars*, 2008 edn.

1. For these assessment years income is exempt from tax under section 10.

• Interest on deposits received from any public company providing long-term finance for construction/purchase of houses in India.

107.22-2 AMOUNT OF DEDUCTION UP TO THE ASSESSMENT YEAR 2005-06 - Amount of deduction† for different assessment years is given below :

	For the assessment years 2003-04 to 2005-06† Rs.	For the assessment year 2002-03 Rs.	For the assessment years 2000-01 and 2001-02 Rs.	For the assessment years 1998-99 and 1999-2000 Rs.
Interest/dividends, etc., from all investments/deposits mentioned in para 107.22 [sec. 80L]	12,000	9,000	12,000	12,000
<i>Additional deductions</i>				
□ Interest on any security of the Central Government or a State Government	3,000	3,000	3000	—
□ Interest on units of UTI/Mutual Fund and interest on any security of the Central Government or a State Government	—	—	—	3,000
□ Dividends from an Indian company, units of UTI or a notified mutual fund under section 10(23D)	—	—	—	—

Notes :

1. In the case of a non-resident, interest from certain loans, bonds, bank deposit and securities is entirely exempt from tax under section 10(4), (4A), (4B).

2. Interest on certain Government securities is completely exempt from tax in some cases—see para 77.3-1.

3. It may also be noted that in the case of a non-resident assessee (being an Indian citizen/person of Indian origin or a Hindu undivided family), any income in respect of units acquired out of funds in a Non-resident (External) Account or by remittance of funds in foreign exchange is not chargeable to tax [sec. 32(1)(aa) of the UTI Act].

4. Where the income referred to in section 80L is derived from any asset held by, or on behalf of, a firm, an association of persons or body of individuals, no deduction under this section is allowed in respect of such income to a partner of the firm or a member of the association or body, with effect from the assessment year 1976-77 [sec. 80L(3) inserted by the Taxation Laws (Amendment) Act, 1984].

5. It has been clarified by the Board that if a person makes a deposit with a bank under re-investment deposit scheme, etc., he is entitled to claim deduction under this section in respect of interest accrued in each year, even though he has no access to the interest income except on termination of the deposit—Circular No. 243, dated June 22, 1978.

107.22A Deduction in respect of certain income of Offshore Banking Units and International Financial Services Centre [Section 80LA] - The existing section 80LA has been substituted by a new section from the assessment year 2006-07.

• **Conditions** - The following conditions should be satisfied—

1. The assessee is—

- a scheduled bank and having an offshore banking unit in a special economic zone; or
- a foreign bank and having an offshore banking unit in a special economic zone; or
- a unit of International Financial Services Centre.

2. The gross total income of the assessee includes (a) any income from the offshore banking unit in a Special Economic Zone; (b) from the business referred to in section 6(1) of the Banking Regulation Act, with an undertaking located in Special Economic Zone or any other undertaking which develops, develops and operates or operates and maintains a Special Economic Zone; (c) from any unit of the International Financial Services Centre from its business for which it has been approved for setting up in such a centre in a Special Economic Zone.

3. The report from a Chartered Accountant in Form No. 10CCF certifying that the deduction has been correctly claimed in accordance with the provisions of this section should be submitted along with the return of income.*

4. A copy of permission obtained under section 23(1)(a) of Banking Regulation Act should be submitted along with the return of income.

5. Deduction under section 80LA is not available unless it is claimed in the return of income.

†No deduction under section 80L will be available from the assessment year 2006-07.

*From April 1, 2014, audit report should be submitted electronically. Provisions pertaining to electronic submission of audit report were not applicable prior to April 1, 2014 (for period prior to April 1, 2014, audit report may be retained by the assessee and it may be furnished in original whenever the Assessing Officer wants to examine it in assessment proceedings or otherwise).

• *Amount of deduction* - If the above conditions are satisfied, then 100 per cent of the aforesaid income is deductible for 5 consecutive assessment years beginning with the assessment year relevant to the previous year in which the permission as stated in point No. 4 (*supra*) or permission of SEBI or under any other law, is obtained. For the next 5 years, 50 per cent of such income would be deductible.

107.23 Deduction in respect of inter-corporate dividends [Sec. 80M] - No deduction is available under section 80M for the assessment years 1998-99 to 2002-03 and from the assessment year 2004-05 onwards. Section 80M is applicable only for the assessment year 2003-04. A deduction under this section would be available to a domestic company, which receives dividend from another domestic company and distributes dividend out of its profits. The amount of deduction on the dividends, so received by a domestic company from another domestic company, shall be limited to the extent of dividends distributed by the recipient company on or before the due date of filing of return. Where any deduction, in respect of the amount of dividend distributed by the domestic company, has been allowed under section 80M in any previous year, no deduction shall be allowed in respect of such amount in any other previous year.

107.24 Deduction in respect of royalties from certain foreign enterprises [Sec. 80-O] - Deduction under section 80-O is not available from the assessment year 2005-06.

107.25 Deduction in respect of income of co-operative society [Sec. 80P] - See para 209.1.

107.26 Deduction in respect of professional income of authors of text books in Indian languages [Sec. 80QQA, applicable for the assessment years 1980-81 to 1989-90 and 1992-93 to 1996-97] - In computing the total income of an author, an amount equal to 25 per cent of the income from books is allowed as deduction for the assessment years 1980-81 to 1989-90 and 1992-93 to 1996-97 (no deduction under section 80QQA is available from the assessment year 1997-98 onwards). The deduction is available in respect of any lump sum consideration for the assignment or grant of any of his interests in the copyright of books or royalties or copyright fees, whether receivable in lump sum or otherwise [even amount received as advance royalty is eligible for deduction]. The deduction is allowed only if the following conditions are fulfilled:

- The book has been prescribed or recommended as a text book by any university for a degree or post-graduate course, or is a dictionary, thesaurus or encyclopaedia.
- The book or the dictionary, thesaurus or encyclopaedia is in a language specified in the Eighth Schedule to the Constitution* or in any other language as may be notified† by the Central Government, having regard to the need for promotion of publication of such text books in that language.

107.27 Deduction in respect of royalty income of authors [Sec. 80QQB] - The provisions of section 80QQB, inserted from the assessment year 2004-05, are given below—

107.27-1 CONDITIONS - The following conditions should be satisfied—

1. The taxpayer is an individual resident in India (he may be an Indian citizen or foreign citizen or he may be resident and ordinarily resident or resident but not ordinarily resident in India. But he should not be a non-resident in India).
2. He is an author or joint author.
3. The book authored by him is work of literary, artistic or scientific nature‡. However, the “books” shall not include brochures, commentaries, diaries, guides, journals, magazines, newspapers, pamphlets, text-books for schools, tracts and other publications of similar nature, by whatever name called.
4. The gross total income of the taxpayer includes any income, derived by him in the exercise of his profession, on account of any lump sum consideration for the assignment (or grant) of any of his interests in the copyright of the book, or of royalty or copyright fees (whether receivable in lump sum or otherwise) in respect of such book. Consideration includes an advance payment on account of such royalties or copyright fees, which is not returnable.
5. The taxpayer shall have to furnish** a certificate in Form No. 10CCD from the person responsible for paying the income.
6. Deduction under section 80QQB is not available unless it is claimed in the return of income.

107.27-2 AMOUNT OF DEDUCTION - If the aforesaid conditions are satisfied, then the amount of deduction is—

- a. Rs. 3,00,000; or

*Languages specified by the Eighth Schedule to the Constitution are: (1) Assamese, (2) Bengali, (3) Gujarati, (4) Hindi, (5) Kannada, (6) Kashmiri, (7) Konkani, (8) Malayalam, (9) Manipuri, (10) Marathi, (11) Nepali, (12) Oriya, (13) Punjabi, (14) Sanskrit, (15) Sindhi, (16) Tamil, (17) Telugu, (18) Urdu.

†No notification is issued so far.

**It is not possible to attach any certificate with new income-tax return forms. The assessee should himself retain the certificate. It may be furnished in original whenever the Assessing Officer wants to examine it in assessment proceedings or otherwise.

‡Computer programme forming part of the software falls within the description of literary or scientific work—*Dassault Systems K.K., In re* [2010] 188 Taxman 223 (AAR - New Delhi).

b. income stated in (4)(supra),
whichever is lower.

107.27-3 OTHER POINTS - One should also keep in view the following points—

1. Where the eligible income is earned outside India, the deduction shall be allowed on so much of the income earned in foreign exchange, which is brought in India within six months from the end of previous year or within such further period as the competent authority may allow in this behalf. For this purpose, competent authority shall mean the Reserve Bank of India or such other authority as is authorised under any law for the time being in force for regulating payments and dealings in foreign exchange. Moreover, deduction will not be allowed unless the taxpayer furnishes* a certificate in Form 10H from the prescribed authority.

2. Where the income by way of royalty or the copyright fee, is not a lump sum consideration (in lieu of all rights of the assessee in the book) so much of the income (before allowing expenses attributable to such income) as is in excess of 15 per cent of the value of such books sold during the previous year, shall be ignored.

3. Where a deduction under section 80QQB for any previous year has been claimed and allowed, no deduction in respect of such income shall be allowed under any other provision of the Act in any assessment year.

107.27-E1 Determine the amount deductible under section 80QQB in the following cases pertaining to the assessment year 2014-15—

	X Rs.	Y Rs.	Z Rs.	A Rs.
Royalty on books covered by section 80QQB	90,000	3,00,000	6,00,000	8,00,000
Is it lump sum payment for assignment of interest in copyright	No	No	No	Yes
Rate of royalty as % of value of books	18%	17.5%	12.5%	NA
Expenditure for earning royalty	10,000	1,10,000	1,80,000	2,40,000
Is royalty received from abroad	Yes	Yes	No	Yes
Amount remitted to India in convertible foreign exchange till September 30, 2014	70,000	2,80,000	NA	7,00,000
• <i>Amount of deduction</i>				
a. Amount remitted to India in convertible foreign exchange within 6 months from the end of the previous year or within the extended time	70,000	2,80,000	—	7,00,000
b. Lump sum consideration	—	—	—	8,00,000
c. Royalty not exceeding 15%	75,000	2,57,143	6,00,000	—
d. The lowest of (a), (b) or (c)	70,000	2,57,143	6,00,000	7,00,000
e. Expenditure incurred	10,000	1,10,000	1,80,000	2,40,000
f. Amount deductible under section 80QQB [i.e., (d) - (e) but subject to maximum of Rs. 3,00,000]	60,000	1,47,143	3,00,000	3,00,000

107.28 Deduction in respect of remuneration from certain foreign sources in the case of professors, teachers, etc. [Sec. 80R] - Deduction under section 80R is not available from the assessment year 2005-06.

107.29 Deduction in respect of professional income from foreign sources [Secs. 80RR, 80RRA] - Deduction under section 80RR is not available from the assessment year 2005-06.

107.30 Deduction in respect of royalty on patents [Sec. 80RRB applicable from the assessment year 2004-05] - Section 80RRB has been inserted from the assessment year 2004-05.

107.30-1 CONDITIONS - The following conditions should be satisfied in order to claim deduction under section 80RRB —

1. The taxpayer is an individual (maybe an Indian citizen or foreign citizen).

2. He is resident in India (he may be ordinarily resident or not ordinarily resident but deduction under section 80RRB is not available if he is non-resident).

3. He is a patentee (he may be a co-owner of patent). Patentee means the person (being the true and first inventor of the invention), whose name is entered on the patent register as the patentee, in accordance with

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the Patents Act, 1970. It includes every such person (being the true and first inventor of the invention) where more than one person is registered as patentee under that Act in respect of that patent.

4. He is in receipt of any income by way of royalty in respect of patent, which is registered under the Patent Act after March 31, 2003. It includes any royalty income from working of or use of the patent. Further, it includes lump sum consideration for the transfer of all or any rights (including the granting of a licence) in a patent, or for imparting of any information concerning the working or use thereof in India, or for rendering of any services in connection with the above. Lump sum consideration includes advance royalty which is not returnable. However, it does not include any consideration for sale of product manufactured with the use of patented process or of the patented article *per se* for commercial use. Further, any consideration, which is chargeable under the head "Capital gains" is not royalty. Where a compulsory licence is granted in respect of any patent under the Patents Act, 1970, the income eligible for the purposes of this section shall not exceed the amount of royalty under the terms and conditions of a licence settled by the Controller under that Act.

5. The assessee shall have to furnish* a certificate in Form No. 10CCE, duly signed by the prescribed authority along [*i.e.*, the Controller under section 1(b) of Patents Act] with the return of income.

6. Deduction under section 80RRB is not available unless it is claimed in the return of income.

107.30-2 AMOUNT OF DEDUCTION - If the aforesaid conditions are satisfied, then the amount of deduction is -

a. Rs. 3,00,000; or

b. income stated in (4)(*supra*),

whichever is lower.

107.30-3 OTHER POINTS - One should also keep in view the following points—

1. Where any income is earned from sources outside India on which the deduction under the section is claimed, only so much of the income shall be considered, as is brought into India by, or on behalf of the assessee in convertible foreign exchange within a period of 6 months from the end of the previous year or within such further period as the competent authority may allow in this behalf. For this purpose, competent authority shall mean the Reserve Bank of India or such other authority as is authorised under any law for the time being in force for regulating payments and dealings in foreign exchange.

Where any income is earned from sources outside India, a certificate certifying that the deduction has been correctly claimed in accordance with the provision of this section (in Form No. 10H), is required*.

2. In case the patent is subsequently revoked by the Controller or the High Court or the name of the assessee is subsequently excluded from the patents register as patentee in respect of that patent, the deduction relating to royalty income in respect of the period for which the patentee's claim was not valid, shall be withdrawn and the assessment may be rectified within a period of 4 years from the end of the previous year in which such order is passed by the High Court or Controller.

3. Where a deduction for any previous year has been claimed and allowed under section 80RRB in respect of any income referred to above, no deduction in respect of such income shall be allowed, under any other provision of the Act in any assessment year.

107.31 Deduction in respect of interest on deposits in savings accounts [Sec. 80TTA] - Section 80TTA has been inserted with effect from the assessment year 2013-14. It provides a deduction up to Rs. 10,000 in aggregate to an assessee (being an individual or a Hindu undivided family) in respect of any income by way of interest on deposits (not being time deposits) in a savings account with —

a. a banking company;

b. 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); or

c. a post office.

However, where the aforesaid income is derived from any deposit in a savings account held by, or on behalf of a firm, an association of persons or a body of individuals, no deduction shall be allowed in respect of such income in computing the total income of any partner of the firm or any member of the association or body.

• *Post office savings bank interest exemption under section 10(15)(i)* - Post office savings bank interest is exempt up to Rs. 3,500 (in an individual account) and Rs. 7,000 (in a joint account) under section 10(15)(i)

*It is not possible to attach any certificate with new income-tax return forms. The assessee should himself retain the certificate. It may be furnished in original whenever the Assessing Officer wants to examine it in assessment proceedings or otherwise.

by virtue of Notification No. 32/2011, dated June 3, 2011, read with Notification No. GSR 607, dated June 9, 1989. The cumulative impact of sections 10(15)(i) and 80TTA is as follows—

	<i>Up to the assessment year 2011-12</i> Rs.	<i>For the assessment year 2012-13</i> Rs.	<i>From the assessment year 2013-14</i> Rs.
Interest on Post Office Savings Bank [exemption under section 10(15)(i)]	Full exemption, nothing is taxable	Exemption up to Rs. 3,500 in a single account and Rs. 7,000 in a joint account	Exemption up to Rs. 3,500 in a single account and Rs. 7,000 in a joint account
Interest on savings account with a bank, co-operative bank and Post Office (deduction under section 80TTA)	No deduction	No deduction	Deduction up to Rs. 10,000

107.32 Deduction in case of a person with disability [Sec. 80U] - The present section 80U has been substituted by a new section with effect from the assessment year 2004-05. The provisions of the new section are given below—

107.32-1 CONDITIONS - Deduction is available if the following conditions are satisfied—

107.32-1a INDIVIDUAL - The taxpayer is an individual (maybe a citizen of India or foreign country).

107.32-1b RESIDENT IN INDIA - He is resident in India (maybe ordinarily resident or not ordinarily resident). Deduction under this section is not available if he is non-resident in India for the relevant assessment year.

107.32-1c PERSON WITH DISABILITY† - It means a person suffering from not less than 40 per cent of any disability given below—

- i. blindness;
- ii. low vision;
- iii. leprosy-cured;
- iv. hearing impairment;
- v. locomotor disability;
- vi. mental retardation;
- vii. mental illness.

Blindness - "Blindness" refers to a condition where a person suffers from any of the following conditions, namely :—

- i. total absence of sight; or
- ii. visual acuity not exceeding 6/60 or 20/200 (snellen) in the better eye with correcting lenses; or
- iii. limitation of the field of vision subtending an angle of 20 degree or worse.

Low vision - "Person with low vision" means a person with impairment of visual functioning even after treatment or standard refractive correction but who uses or is potentially capable of using vision for the planning or execution of a task with appropriate assistive device.

Leprosy cured person - "Leprosy cured person" means any person who has been cured of leprosy but is suffering from—

- i. loss of sensation in hands or feet as well as loss of sensation and paresis in the eye and eye-lid but with no manifest deformity;
- ii. manifest deformity and paresis but having sufficient mobility in their hands and feet to enable them to engage in normal economic activity;

†The meaning of disability has been extended from the assessment year 2005-06 to include "autism", "cerebral palsy" and "multiple disability" referred to in clauses (a), (c) and (h) of section 2 of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999.

iii. extreme physical deformity as well as advanced age which prevents him from undertaking any gainful occupation.

Hearing impairment - "Hearing impairment" means loss of sixty decibels or more in the better ear in the conversational range of frequencies.

Locomotor disability - "Locomotor disability" means disability of the bones, joints or muscles leading to substantial restriction of the movement of the limbs or any form of cerebral palsy.

Mental retardation - "Mental retardation" means a condition of arrested or incomplete development of mind of a person, which is specially characterised by subnormality of intelligence.

Mental illness - "Mental illness" means any mental disorder other than mental retardation.

107.32-1d CERTIFIED BY MEDICAL AUTHORITY - The taxpayer shall have to furnish* a copy of the certificate issued by the medical authority (format of certificate is given below)‡ along with the return of income. Where the condition of disability requires reassessment, a fresh certificate from the medical authority shall have to be obtained after the expiry of the period mentioned on the original certificate in order to continue to claim the deduction.

"Medical authority" for this purpose means any hospital or institution specified by notification by the appropriate Government for the purpose of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995.

FORM	
<p style="text-align: center;">STANDARD FORMAT OF THE CERTIFICATE</p> <p>NAME & ADDRESS OF THE INSTITUTE/HOSPITAL issuing the certificate</p> <p>Certificate No. Date.....</p> <p style="text-align: center;">CERTIFICATE FOR THE PERSONS WITH DISABILITIES</p> <p>This is to certify that Shri/Smt./Kum..... son/wife/daughter of Shri..... Age old male/female, Registration No. is a case of He/She is physically disabled/visual disabled/speech & hearing disabled and has% (..... per cent) permanent (physical impairment/visual impairment/speech & hearing impairment) in relation to his/her</p> <p>Notes:—</p> <p>1. This condition is progressive/non-progressive/likely to improve/not likely to improve.*</p> <p>2. Re-assessment is not recommended/is recommended after a period ofmonths/years.*</p> <p>*Strike out whichever is not applicable.</p> <p>Sd/- (Doctor) Seal Sd/- (Doctor) Seal Sd/- (Doctor) Seal</p> <p>Signature/Thumb impression of the patient. Countersigned by the Medical Superintendent/CMO/Head of Hospital (with seal)</p> <p>Recent attested photograph showing the disability affixed here.</p>	<p style="text-align: center;">CERTIFICATE OF MENTAL RETARDATION FOR GOVERNMENT BENEFITS</p> <p>This is to certify that Shri/Kum..... son/daughter of..... of Village/Town/Citywith particulars given below :—</p> <p>(a) Age</p> <p>(b) Sex</p> <p>(c) Signature/Thumb impression</p> <p style="text-align: center;">CATEGORISATION OF MENTAL RETARDATION</p> <p>Mild/Moderate/Severe/Profound</p> <p>Validity of the Certificate : Permanent</p> <p style="text-align: right;">Signature of Government Doctor/Hospital with seal Chairperson Mental Retardation Certification Board</p> <p>Recent Attested Photograph showing the disability affixed here.</p> <p>Dated :</p> <p>Place :</p>

107.32-2 AMOUNT OF DEDUCTION - If the aforesaid conditions are satisfied, then a fixed deduction of Rs. 50,000 is available. A higher deduction of Rs. 1,00,000 is allowed in respect of a person with severe disability (i.e., having any disability of 80 per cent or above).

‡Form No. 10-IA if the person is suffering from autism, cerebral palsy, etc.

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