

THE FIRST SCHEDULE

[See Section 2(5)]

RULES FOR COMPUTING THE CHARGEABLE PROFITS

In computing the chargeable profits of a previous year, the total income computed for that year under the Income-tax Act shall be adjusted as follows:—

1. Income, profits and gains and other sums falling within the following clauses shall be excluded from such total income, namely:—

- (i) any income chargeable under the Income-tax Act under the head “Capital gains”;
- (ii) any compensation or other payment as is referred to in clause (ii) of section 28 of the Income-tax Act;
- (iii) profits and gains of any business of life insurance;
- (iv) any income referred to in sub-section (2) of section 41 of the Income-tax Act;
- ⁴* * * * *;
- (vi) income chargeable under the Income-tax Act under the head “Interest on securities” derived from any security of the Central Government issued or declared to be income-tax free or from any security of a State Government issued income-tax free, the income-tax whereon is payable by the State Government;
- ⁵[(vii) an amount equal to fifty per cent. of the sum with reference to which a deduction is allowable to the company under the provisions of section 80G of the Income-tax Act;]
- (viii) income by way of dividends from an Indian company or a company which has made the prescribed arrangements for the declaration and payment of dividends within India;
- (ix) income by way of royalties received from Government or a local authority or any Indian concern;
- (x) in the case of a non-resident company which has not made the prescribed arrangements for the declaration and payment of dividends within India, its income by way of any interest or fees for rendering technical services received from Government or a local authority or any Indian concern;
- (xi) in the case of a banking company—
 - (a) any sum which during the previous year is transferred by it to a reserve fund under sub-section (1) of section 17 of the Banking Regulation Act, 1949 (10 of 1949) or is deposited by it with the Reserve Bank of India under sub-clause (ii) of clause (b) of sub-section (2) of section 11 of that Act, not exceeding the amount required under the aforesaid provisions to be so transferred or deposited, as the case may be, or
 - (b) any sum transferred by it during the previous year to any reserves in India including reserves not shown as such in its published balance-sheet in so far as the sums transferred to such reserves are attributable to income chargeable to tax under the Income-tax Act and have not been allowed as a deduction in computing its total income under that Act and in so far as the aggregate of such sums does not exceed the highest of the aggregate of such sums, if any, so transferred during any one of the three years prior to the previous year,

whichever is higher;

1. Ins. by Act 26 of 1974, s. 21 (w.e.f. 18-8-1974).

2. Subs. by Act 41 of 1975, s. 125, for “or in two successive sessions” (w.e.f. 1-4-1976).

3. Subs. by s. 125, *ibid.*, for “in which it is so laid or the session immediately following” (w.e.f. 1-4-1976).

4. Clause (v) omitted by Act 20 of 1967, s. 36 (w.e.f. 1-4-1968).

5. Subs. by s. 36, *ibid.*, for clause (vii) (w.e.f. 1-4-1968).

(xii) the amount of any deduction from the income-tax ¹* * * chargeable on the total income allowed under the annual Finance Act in connection with export of any goods or merchandise out of India or the sale by a manufacturer of any articles to any person who exports them out of India.

²[*Explanation.*—Notwithstanding anything contained in any clause of this rule, the amount of any income or profits and gains which is required to be excluded from the total income under that clause shall be only the amount of such income or profits and gains as computed in accordance with the provisions of the Income-tax Act (except Chapter VIA thereof), and in a case where any deduction is required to be allowed in respect of any such income or profits and gains under the said Chapter VIA, the amount of such income or profits and gains computed as aforesaid as reduced by the amount of such deduction.]

2. The balance of the total income arrived at after making the exclusions mentioned in rule 1 shall be reduced by—

(i) the amount of income-tax ¹*** payable by the company in respect of its total income under the provisions of the Income-tax Act after making allowance for any relief, rebate or deduction in respect of income-tax ¹*** to which the company may be entitled under the provisions of the said Act or the annual Finance Act, and after excluding from such amount—

(a) the amount of income-tax ¹*** if any, payable by the company in respect of any income referred to in clause (i) or clause (ii) or clause (iii) or clause (viii) of rule, 1 included in the total income;

³[(b) the amount of income-tax, if any, payable by the company under the provisions of the annual Finance Act with reference to the relevant amount of distributions of dividends by it.

Explanation.—In this sub-clause, the expression “the relevant amount of distributions of dividends” has the meaning assigned to it in the Finance Act of the relevant year;]

⁴[(c) the amount of income-tax, if any, payable by the company under section 104 of the Income-tax Act.

Explanation.— In relation to the assessment year commencing on the 1st day of April, 1964, the reference in this sub-clause to “income-tax” shall be construed as a reference to “super-tax”;

in the case of a company which has been charged to tax in a country outside India on any portion of its income, profits and gains included in its total income as computed under the Income-tax Act, the tax actually paid in respect of such income, profits and gains in the said country in accordance with the laws in force in that country after allowance of every relief due under the said laws:

Provided that the aforesaid reduction shall not be allowed unless the assessee produces evidence of the fact of the payment of the aforesaid tax in that country.

3. The net amount of income calculated in accordance with rule 2 shall be increased ¹[by the amount of any expenditure] incurred on account of commission, entertainment and advertisement, to the extent such expenditure, in the opinion of the ²[Assessing Officer] is excessive having regard to the circumstances of the case:

Provided that the previous authority of the ³[Deputy Commissioner] is obtained for holding such expenditure to be excessive.

1. The words “and super-tax” omitted by Act 10 of 1965, s. 74 (w.e.f. 1-4-1965).

2. Ins. by Act 16 of 1981, s. 43 (w.e.f. 1-4-1981).

3. Subs. by Act 13 of 1966, s. 43, for sub-clause (b) (w.e.f. 1-4-1966).

4. Ins. by s. 43, *ibid.* (retrospectively).