

INCOME-TAX ACT, 2025

C: New tax regime

Section 205 - Conditions for tax on income of certain companies and co-operative societies.

(1) For the purposes of sections 199(1)(c)(i)(C), 200(1)(a)(iii), 201(3)(a)(iii), 203(1)(a)(ii) and 204(3)(a)(ii), the total income shall be computed without any deduction or exemption, under the following provisions:--

(a) section 33(8), determined in such manner, as may be prescribed;

(b) section 45(3)(a) or (b) or (c);

(c) section 46;

(d) section 47(1)(a);

(e) section 48;

(f) section 49; and

(g) section 144.

(2) For the purposes of section 201 or 204, the following conditions shall apply to the assessee:—

(a) its business is not formed by splitting up, or the reconstruction, of a business already in existence, unless it is formed as a result of the re-establishment, reconstruction or revival of the business of any such undertaking as is referred to in section 140(4) in the circumstances and within the period specified in the said section;

(b) it does not use any machinery or plant, previously used for any purpose, other than—

(i) permitted machinery or plant used outside India;

(ii) machinery or plant or any part thereof previously used for any purpose and the total value of such machinery or plant or any part thereof put to use by the assessee does not exceed 20% of the total value of the machinery or plant used by such assessee;

(c) in case of a domestic company, it does not use any building previously used as a hotel or a convention centre, in respect of which deduction under section 80-ID of the Income-tax Act, 1961 has been claimed and allowed;

(d) it is not engaged in any business other than the business of manufacture or production of any article or thing and research in relation to, or distribution of, such article or thing manufactured or produced by it,

and, if any difficulty arises in fulfilling any of the conditions contained in clause (b) or (c) or (d), the Board may, with the previous approval of the Central Government, issue guidelines for the purpose of removing the difficulty and to promote manufacturing or production of article or thing using new plant and machinery.

(3) Every guideline issued by the Board under sub-section (2) shall be laid before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both houses agree in making any modification in such guideline or both Houses agree that the guideline, should not be issued, the guideline shall thereafter

have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that guideline.

(4) For the purposes of sections 201 and 204,--

(a) where it appears to the Assessing Officer that, owing to the close connection between the person to which the said section applies and any other person, or for any other reason, the course of business between them is so arranged that the business transacted between them produces to the assessee more than the ordinary profits which might be expected to arise in such business, then the Assessing Officer shall, in computing the profits and gains of such business for the purposes of this section, take profits as may be reasonably deemed to have been derived therefrom, and where the said arrangement involves a specified domestic transaction referred to in section 164, profits from such transaction shall be determined having regard to the arm's length price as defined in section 173(a); and

(b) the amount, being profits in excess of the profits determined by the Assessing Officer under clause (a), shall be deemed to be the income of the person and shall be chargeable at the rates specified in section 201(1) [Table: Sl. No. 1.C(d)] or 204 (1)[Table: Sl. No. 1.A(d)], as the case may be.

(5) For the purposes of this Part,--

(a) the business of manufacture or production of any article or thing shall include the business of generation of electricity but shall not include business of—

(i) development of computer software in any form or in any media; or

(ii) mining; or

(iii) conversion of marble blocks or similar items into slabs; or

(iv) bottling of gas into cylinder; or

(v) printing of books or production of cinematograph film; or

(vi) any other business as may be notified by the Central Government in this behalf; and

(b) the expressions,--

(i) "hotel" and "convention centre" shall have the meanings respectively assigned to them in clause (b) and clause (a) of section 80-ID(6) of the Income-tax Act, 1961;

(ii) "permitted machinery and plant used outside India" means the machinery or plant, which was previously used outside India by any other person, if the following conditions are fulfilled:—

(A) such machinery or plant was not, at any time previous to the date of the installation, used in India;

(B) such machinery or plant is imported into India from any country outside India; and

(C) no deduction on account of depreciation in respect of such machinery or plant has been allowed or is allowable under the provisions of this Act in computing the total income of any person for any period before the date of installation of machinery or plant by the person;

(iii) "unabsorbed depreciation" shall have the meaning assigned to it in section 116(13)(e); and

(iv) "Unit" shall have the same meaning as assigned to it in section 2(zc) of the Special Economic Zones Act, 2005.