

**JOINT/SELECT COMMITTEE
REPORTS OF LEGISLATIVE
ASSEMBLY -1947**

**The Income-Tax and Excess
Profits Tax (Amendment) Bill**

I. List of Reports of Select Committees
presented to the Legislative Assembly
of the Indian Legislature in 1947.

S.No.	Short title of the Bill.	Date of presen- tation.	Date of publica- tion.
1.	The Indian Navy (Discipline) (Amendment) Bill.	3.2.1947.	15.2.1947
2.	The Motor Vehicles (Amendment) Bill.	3.2.1947.	15.2.1947
3.	The Motor Vehicles (Second Amendment) Bill.	3.2.1947.	15.2.1947
4.	The Foreign Exchange Regulation Bill.	3.2.1947.	15.2.1947
5.	The Industrial Disputes Bill.	3.2.1947.	15.2.1947
6.	The Railways (Transport of Goods) Bill.	17.2.1947.	1.3.1947
7.	The Banking Companies Bill.	17.2.1947.	1.3.1947
8.	The Indian Trade Unions (Amendment) Bill.	26.2.1947.	5.4.1947
9.	The Insurance (Second Amendment) Bill.	5.3.1947.	15.3.1947
10.	The Delhi and Ajmer-Merwara Rent Control Bill.	12.3.1947.	22.3.1947
11.	The Imports and Exports (Control) Bill.	12.3.1947.	22.3.1947
12.	The Income-tax and Excess Profits Tax (Amendment) Bill.	19.3.1947.	29.3.1947
13.	The Business Profits Tax Bill.	19.3.1947.	29.3.1947
14.	The Rubber (Production and Marketing) Bill.	1.4.1947.	12.4.1947
15.	The Control of Shipping Bill.	1.4.1947.	12.4.1947
16.	The Capital Issues (Continuance of Control) Bill.	7.4.1947.	12.4.1947

S.No.	Short title of the Bill.	Date of presenta- tion.	Date of publica- tion.
17.	The Taxation on Income (Investigation Commission) Bill.	7. 4.1947.	19. 4.19

II. List of Reports of Select Committees
Presented to the ~~Legis~~ Constituent
Assembly of India (Legislative) in
1947.

1. The Delhi and Ajmer-Merwara
Rent Control (Amendment) Bill. 1. 12.1947. 13.12.19
2. The Delhi Premises (Requisi-
tion and Eviction) Bill. 1.12.1947. 13.12.19
3. The Extra-Provincial Juris-
diction Bill. 6.12.1947. 13.12.19

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LEGISLATIVE ASSEMBLY

REPORT OF THE SELECT COMMITTEE ON THE INCOME-TAX AND EXCESS PROFITS TAX (AMENDMENT) BILL, 1947

We, the undersigned, members of the Select Committee to which the Bill further to amend the Indian Income-tax Act, 1922, and the Excess Profits Tax Act, 1940, was referred, have considered the Bill and have now the honour to submit this our Report, with the Bill as amended by us annexed thereto.

Clause 2.—Our amendment is purely formal, it being well established that the expression “property” includes actionable claims.

Clause 6.—Our first amendment limits liability to profits and gains arising from transactions taking place later than the end of March 1946. We also consider that the figure of Rs. 5,000 is too low as the limit below which capital gains will not be taxed and have increased this figure to Rs. 15,000. And we propose to exempt from liability to the tax capital gains arising from—

- (a) the sale of house property which has been in the assessee's possession for not less than seven years;
- (b) compensation awarded for the compulsory acquisition of property for public purposes;
- (c) transfers by a principal company to a 100% subsidiary.

On the other hand, we insert a provision aimed at the prevention of evasion by transfers to connected persons. Finally we propose an additional subsection to the new section 12-B for the purpose of affording some relief in cases where the transactions are for the purpose of replacement of assets employed in the business or are by reason of a change of residence.

Clause 8.—We feel that the concession in favour of assessee's other than companies which the original clause provides does not go far enough, and that the income derived from capital gains should not in such cases be lumped with other income and assessed with it. We propose therefore that in these cases, the amount assessed at the normal rates should be the total income reduced by the amount of capital gains, and that these capital gains should be assessed separately. We introduce a scale applicable to capital gains, beginning with a rate of one anna in the rupee on the whole capital gains where they do not exceed Rs. 50,000, and rising by one anna stages up to a rate of 5 annas in the rupee on the whole amount of the capital gains where that amount exceeds ten lakhs of rupees. Provision for marginal relief is included. The capital gains of a company will be exempted from company super-tax, but not from additional super-tax if it distributes dividends above the prescribed limit.

Clause 10.—We raise the maximum limit of the carry forward of capital losses to Rs. 15,000 consequentially upon our raising of the tax-free limit for capital gains.

Clause 13.—We propose to limit the power to treat as the agent of a person residing out of British India a person who acquires capital assets from such person to the cases of transactions occurring after the introduction of this Bill.

Clause 16.—The purpose of this clause is to enable assessments in cases where the period of five years has already expired, and to avoid doubts as to whether the amendment made in the Bill is sufficient, for this purpose, we propose to give it retrospective effect.

2. The Bill was published in the official Gazette on the 8th March, 1947

3. We think that the Bill has not been so altered as to require re-publication, and we recommend that it be passed as now amended.

JOGENDRA NATH MANDAL.

LIAQUAT ALI KHAN.

P. J. GRIFFITHS.

GEOFFREY W. TYSON.

MOHAMMAD YAMIN KHAN.

K. NAZIMUDDIN.

MUHAMMAD NAUMAN.

H. A. S. H. ISHAQ SETH.

*K. C. NEOGY.

*MANU SUBEDAR.

*D. CHAMAN LALL.

*VADILAL LALLUBHAI.

*MOHAN LAL SAKSENA.

*N. G. RANGA.

*SATYA NARAYAN SINHA.

*M. R. MASANI.

N. M. JOSHI.

SHAVAX A. LAL.

JOHN SHEEHY.

C. W. AYERS.

NEW DELHI;

The 19th March, 1947.

*Subject to a minute or minutes of Dissent.

MINUTES OF DISSENT

I

This Bill seeks to include capital gains within the definition of income under the Indian Income-Tax Act, 1922, and Excess Profits Tax Act, 1940, and thus marks a fundamental departure from the Income-tax policy followed by the Government so far. The Indian Law which is substantially based upon the principles of the British Income-tax law, has deliberately excluded casual gains from the category of income. The idea underlying this Bill has been borrowed from the United States of America where any realised accretion to capital is treated as income. There is, however, a real difference in the American and the British conceptions of such receipts. Indeed, the psychological approach to the entire problem is different in these two countries.

According to the British view such an impost would be in the nature of a levy on capital and not a tax on income. In 1920 the British Royal Commission on the Income tax reported in favour of extending the scope of the British law to include as subjects of taxation certain casual profits. The Commission did not recommend the adoption of the all inclusive American scheme, but suggested that there should be subjected to income-tax those casual profits made in transactions recognizable as business transactions, i.e., those in which the subject-matter was acquired with a view to its disposition at a profit. Even this cautious recommendation was not adopted in Great Britain. It has to be stated, however, that as an interpretation of the income-tax law in Britain—as well as in India—profits from a sale or re-sale of assets would be assessable to income-tax if the transaction can be regarded as an incident of a trade or business.

In his Budget speech, the Finance Member referred to the large capital gains that have been made in recent years and are still being made "owing to prevailing conditions", and described these gains as "unearned increment", for taxing which there was a stronger justification than for taxing ordinary income. The Hon'ble Member referred to what he described as a lacuna which this measure was intended to remove. As observed above, the present state of law which excluded casual gains from the purview of income-tax is the result of a deliberate policy. Among the prevailing conditions referred to by him, inflation is the principal one, and it is hardly fair to ignore this factor that contributes towards the high prices of capital assets. If, however, it were intended merely for the purpose of taxing speculative gains during the prevalence of abnormal circumstances, the Bill should have been a short term measure. But the proposed law would be a permanent supplement to the Income-Tax Act.

Though the Bill is based upon American precedent, we are afraid that the authorities have not made a full study of the circumstances that justify its operation in America, or of the history of its administration. No information on these points has been made available to us beyond the text of the law on the subject. From what we have been able to gather, however, American experience in this matter, and the periodical changes in the relevant law effected there, should have a bearing on the consideration of the present proposal. Likewise, the British view should be given adequate importance. In the absence of much-needed information on these points, we feel very much handicapped in the consideration of the Bill which bristles with complexities.

In the case of an asset dating from before the 1st January, 1939, valuation as on that date may be adopted for purposes of calculating the gain realised by a subsequent sale. The Income-tax Officer has been entrusted with the authority of making this valuation, but it is not known what factors are expected to be considered in determining the market value as on the said date, nor is it obvious as to why this particular date has been adopted for this purpose. As regards the factors that may be said to determine the value of an asset on any given date, the following are among those that are taken into account in America :—

- (a) Sales or actual dealings in similar property.
- (b) Appraisals and opinions of experts.
- (c) Retrospective appraisals.
- (d) Cost of reproduction.]
- (e) Capitalisation of income.]
- (f) Prorating the increase in value on a time basis.
- (g) Book value. █

It will be observed that the element of inflation would indirectly be set off, if the above tests were applied to a valuation. The determination of the value of property in America follows an elaborate procedure intended to ensure a fair deal for the assessee. Simplicity, on the other hand, has been claimed as a merit of the present taxation proposals, but we are afraid that for the sake of such simplicity, many of the safeguards and limitations recognised in U. S. A. have been overlooked.

We have to point out that the very vast difference in economic conditions and wealth accretion between U.S.A. and India have been ignored in framing this measure. The rapidity with which capital assets change hands in U.S.A., is very much greater than even that which exists in European countries and the United Kingdom, and the caution and circumspection, which should have been employed in drawing a parallel from U.S.A. from this point of view do not appear to have been bestowed by government on this measure.

The above considerations assume some importance in view of the fact that an Estate Duty Bill has been introduced in the Assembly, under which capital assets of all kinds belonging to an individual will come under a levy when they pass from an individual to his heirs. The clarification of Government's policy on the matter of the Estate Duty should precede the final adoption of this measure if and when the House decides to take it up.

One of the guiding principles of the U.S.A. law is to distinguish between short-term gains and long-term gains for purposes of assessment, the present line of demarcation being a period of six months. Although in the original Bill, this principle was conceded, the Bill as amended in the Select Committee has removed this distinction. We are advised that in the U.S.A. in the case of long-term gains they may be reduced to 50 per cent. of their amount in assessing income-tax, or, at the option of the assessee they may be taxed separately at a maximum rate of 25 per cent. The incidence of taxation proposed in this Bill is certainly higher in the maximum scale. We are further informed that in the U.S.A. in 1938, "property, used in the trade or business of a character which is subject to allowance for depreciation" was excluded from the definition of capital assets; and that in 1942 and 1943 changes made in the law had the effect of excluding the sale of real estate if it had been held for not less than six months.

This measure may well have the effect of placing restrictions on business and free-exchange of capital which may become less liquid. The amount of tax estimated by Government as likely to be realised in the Budget year under the amended provisions of the Bill is about Rupees 2 crores. This in our view is a gross under-estimate. Taking into consideration transactions widely known, the yield will be considerably higher.

We are convinced that an expert enquiry should be made into all those complex problems and their implications on the structure of business and society in this country should fully be examined. In any event, such a measure which is foreign to the Indian tax structure, should not be rushed through in its present form.

We regret our suggestion for an expert enquiry was summarily turned down. Because we are second to none in our anxiety to tax capital gains resulting from speculation activities, we further suggested that pending the enquiry the scope of the Bill should be restricted to easily ascertainable specific assets which lend themselves, more than others, to speculative gains in the period immediately after the close of the war. These are—

- (1) Business concerns as a whole ;
- (2) Stocks, Shares, Securities and Bullion.

We shall urge that this should be the course adopted by the House. With regard to other forms of assets, such as residential property, jewellery and other personal effects, we suggest that no action may be taken pending the enquiry recommended by us and that Government should submit their proposals to the House after fully considering the results of such enquiry.

MANU SUBEDAR
 MOHAN LAL SAKSENA
 M. R. MASANI
 K. C. NEOGY
 VADILAL LALLUBHAI
 N. G. RANGA
 SATYA NARAYAN SINHA
 D. CHAMAN LALL

NEW DELHI ;
The 19th March 1947.

II

Gain accruing from the sale of capital assets in native states or foreign countries by a resident of British India should be exempted from the scope of this Bill provided the amount so realised from the sale of such capital assets is not brought into British India.

VADILAL LALLUBHAI.

NEW DELHI ;
The 19th March 1947.

(BILL AS AMENDED BY THE SELECT COMMITTEE)

(Words underlined or sidelined indicate the amendments suggested by the Committee; asterisks indicate omissions.)

A Bill further to amend the Indian Income-tax Act, 1922, and the Excess Profits Tax Act, 1940.

WHEREAS it is expedient further to amend the Indian Income-tax Act, 1922, and the Excess Profits Tax Act, 1940, for the purposes hereinafter appearing;

XI of 1922.
XV of 1940.

It is hereby enacted as follows:—

CHAPTER I
Preliminary

1. (1) This Act may be called the Income-tax and Excess Profits Tax (Amendment) Act, 1947.

Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint.

CHAPTER II

Amendments of Act XI of 1922

2. In section 2 of the Indian Income-tax Act, 1922 (hereafter in this Chapter referred to as the said Act),—

Amendment of section 2, Act XI of 1922.

(a) clause (4A) shall be renumbered as clause (4B), and after clause (4) the following clause shall be inserted, namely:—

‘(4A) “capital asset” means property of any kind (other than agricultural land) * * * * * held by an assessee, whether or not connected with his business, profession or vocation, but does not include any stock-in-trade, consumable stores or raw materials held for the purposes of his business, profession or vocation;’

(b) for the *Explanation* to clause (6A) the following shall be substituted, namely:—

‘Provided further that the expression “accumulated profits”, wherever it occurs in this clause, shall not include capital gains of any previous year prior to the previous year for the assessment for the year ending on the 31st day of March 1948;’

(c) in clause (6C), after the word and figures “section 10”, the words, figures and letter “and any capital gain chargeable according to the provisions of section 12B” shall be inserted;

(d) in clause (15), for the words “does not apply; and” the words “does not apply and except any capital gain which is not includible in the total income of an assessee;” shall be substituted.

Amendment
of section 4,
Act XI of
1922.

3. In sub-section (3) of section 4 of the said Act,—

(a) to clause (iv) the words “and any capital gains of the Fund arising from the sale, exchange or transfer of such securities” shall be added;

(b) in clause (vi), after the words “Any receipts” the words, figures and letter “not being capital gains chargeable according to the provisions of section 12B and” shall be inserted.

Amendment
of section
4-A, Act XI
of 1922.

4. To clause (c) of section 4A of the said Act, the words “account not being taken in either case of income chargeable under the head “Capital gain”” shall be added.

Amendment
of section 6,
Act XI of
1922.

5. To section 6 of the said Act the following clause shall be added, namely :—

“(vi) Capital gains”.

Insertion of
new section
12B in Act
XI of 1922.

6. After section 12A of the said Act the following section shall be inserted, namely :—

‘12B. (1) The tax shall be payable by an assessee under the head “Capital gains” in respect of any profits or gains arising from the sale, exchange or transfer of a capital asset effected after the 31st day of March 1946; and such profits and gains shall be deemed to be income of the previous year in which the sale, exchange or transfer took place :

Provided that where the amount of capital gains in the previous year does not exceed fifteen thousand rupees, the tax shall not be payable by the assessee and such amount shall not be included in his total income :

Provided further that the tax shall not be payable by an assessee in respect of any profits or gains arising from the sale, exchange or transfer of a capital asset, being property the income of which is chargeable under section 9 and which has been possessed by the assessee for not less than seven years before the date on which the sale, exchange or transfer took place; and the amount of such profits or gains shall not be included in his total income :

Provided further that any transfer of capital assets by reason of the compulsory acquisition thereof under any law for the time being in force relating to the compulsory acquisition of property for public purposes or any distribution of capital assets on the total or partial partition of a Hindu undivided family, or on the dissolution of a firm or other association of persons, or on the liquidation of a company, or under a deed of gift, bequest, will or transfer on irrevocable trust shall not, for the purposes of this section, be treated as sale, exchange or transfer of the capital assets.

Provided further that the transfer of a capital asset by a company to a subsidiary company, the whole of the share capital of which is held by the parent company or by the nominees thereof, shall not be treated as a sale, exchange or

transfer within the meaning of this section where the subsidiary company is resident in British India and is registered under the Indian Companies Act, 1913, so however that for the purposes of clause (vi) or clause (vii) of sub-section (2) of section 10, the cost or the written down value, as the case may be, of the transferred capital asset shall be taken to be the same as it would have been if the parent company had continued to hold the capital asset for the purposes of its business.

VII of 1913

(2) The amount of a capital gain shall be computed after making the following deductions from the full value of the consideration for which the sale, exchange or transfer of the capital asset is made, namely :—

- (i) expenditure incurred solely in connection with such sale, exchange or transfer ;
- (ii) the actual cost to the assessee of the capital asset, including any expenditure of a capital nature incurred and borne by him in making any additions or alterations thereto, but excluding any expenditure in respect of which any allowance is admissible under any provision of sections 8, 9, 10 and 12 :

Provided that where a person who acquires a capital asset from the assessee, whether by sale, exchange or transfer, is a person with whom the assessee is directly or indirectly connected, and the Income-tax Officer has reason to believe that the sale, exchange or transfer was effected with the object of avoidance or reduction of the liability of the assessee under this section, the full value of the consideration for which the sale, exchange or transfer is made shall, with the prior approval of the Inspecting Assistant Commissioner of Income-tax, be taken to be the fair market value of the capital asset on the date on which the sale, exchange or transfer took place :

Provided further that where the capital asset is an asset in respect of which the assessee has obtained depreciation allowance in any year, the actual cost of the asset to the assessee shall be its written down value, as defined in section 10, increased or diminished, as the case may be, by any adjustment made under clause (vi) of sub-section (2) of that section :

Provided further that where the capital asset became the property of the assessee before the 1st day of January 1939, he may, on proof of the fair market value thereof on the said date to the satisfaction of the Income-tax Officer, substitute for the actual cost such fair market value which shall be deemed to be the actual cost to him of the asset, and which shall be reduced by the amount of depreciation, if any, allowed to the assessee after the said date and increased or diminished, as the case may be, by any adjustment made under clause (vi) of sub-section (2) of section 10 :

Provided further that where the capital asset was on any previous occasion the subject of negotiations for its sale, exchange or transfer, any option or other money received and

retained by the assessee in respect of such negotiations shall be deducted in computing the actual cost to him of such asset.

(3) Where any capital asset became the property of the assessee under any of the circumstances referred to in the second proviso to sub-section (1), its actual cost allowable to him for the purposes of this section shall be its actual cost to the previous owner thereof, and the provisions of sub-section (2) shall apply accordingly; and where the actual cost to the previous owner cannot be ascertained, the fair market value at the date on which the capital asset became the property of the previous owner shall be deemed to be the actual cost thereof.

(4) Notwithstanding anything contained in sub-section (1), where a capital gain arises from the sale, exchange or transfer of a capital asset which immediately before the date on which the sale, exchange or transfer took place was being used by the assessee for the purposes of his business, profession or vocation, or which in the two years immediately preceding that date was being used by him or a parent of his mainly for the purposes of his own or the parent's own residence, and the assessee has within a period of one year before or after that date purchased a new capital asset for the same purposes of his business, profession or vocation or, as the case may be, for the purposes of his own residence, then instead of the capital gain being charged to tax as income of the previous year in which the sale, exchange or transfer took place, it shall, if the assessee so elects in writing before the assessment is made be dealt with in accordance with the following provisions of this sub-section, that is to say,—

(a) if the amount of the capital gain is greater than the cost of the new asset,—

(i) the difference between the amount of the capital gain and the cost of the new asset shall be charged under this section as income of the previous year, and

(ii) for the purposes of computing in respect of the new asset any allowance under clause (vi) or clause (vii) of sub-section (2) of section 10 or the amount of any capital gain arising from its sale, exchange or transfer, the cost or the written down value, as the case may be, shall be nil, or

(b) if the amount of the capital gain is equal to or less than the cost of the new asset,—

(i) the capital gain shall not be charged under this section, and

(ii) for the purposes of computing in respect of the new asset any allowance under the said clause (vi) or any allowance or adjustment under the said clause (vii) or the amount of any capital gain arising from its sale, exchange or transfer,

the cost or the written down value, as the case may be, shall be reduced by the amount of the capital gain :-

Provided that where in respect of the purchase of a new capital asset consisting of plant or machinery the assessee satisfies the Income-tax Officer that despite the exercise of due diligence it has not been possible to make the purchase within the period specified in this sub-section, the Income-tax Officer may, with the prior approval of the Inspecting Assistant Commissioner of Income-tax, extend the said period to such date as he considers reasonable.

7. In clause (c) of sub-section (2) of section 14 of the said Act, after the words " are assessable under " the words, figures and letter " section 12B or " shall be inserted.

Amendment of section 14, Act XI of 1922.

8. To section 17 of the said Act the following sub-sections shall be added, namely :-

Amendment of section 17, Act XI of 1922.

(6) Where the total income of an assessee, not being a company, includes any income chargeable under the head " Capital gains ", the tax, including super-tax, payable by him on his total income shall be—

(i) income-tax and super-tax payable on his total income as reduced by the amount of such inclusion, had such reduced income been his total income, plus

(ii) income-tax on the whole amount of such inclusion at the following rates, namely :-

where such amount—	Rate.
exceeds Rs. 15,000 but does not exceed Rs. 50,000	One anna in the rupee,
exceeds Rs. 50,000 but does not exceed Rs. 2,00,000	Two annas in the rupee,
exceeds Rs. 2,00,000 but does not exceed Rs. 5,00,000	Three annas in the rupee,
exceeds Rs. 5,00,000 but does not exceed Rs. 10,00,000	Four annas in the rupee,
exceeds Rs. 10,00,000	Five annas in the rupee :

Provided that where owing to the fact that the amount of such inclusion has exceeded a certain limit, income-tax thereon is payable or is payable at a higher rate, the amount of income-tax so payable shall be reduced so as not to exceed—

(a) the amount which would have been payable if the amount of such inclusion had not exceeded that limit, plus

(b) one-half of the amount by which the amount of such inclusion exceeds that limit.

(7) Where the total income of a company includes any income chargeable under the head " Capital gains ", the super-tax payable by the company in any year shall be reduced by an amount computed on that part of its total income which consists of such inclusion at the rate of super-tax (excluding

the rate of additional super-tax, if any) specified in the case of a company by the annual Act of the Central Legislature fixing the rate or rates of tax for that year.'

Amendment
of section
18A, Act XI
of 1922.

9. To section 18A of the said Act the following sub-section shall be added, namely :—

'(12) Any income chargeable under the head "Capital gains" shall not be taken into account for any of the purposes of this section.'

Amendment
of section
24, Act XI
of 1922.

10. In section 24 of the said Act, after sub-section (2) the following sub-sections shall be inserted, namely :—

'(2A) Notwithstanding anything contained in sub-section (1), where the loss sustained is a loss falling under the head "Capital gains", such loss shall not be set off except against any profits and gains falling under that head.

(2B) Where an assessee sustains a loss such as is referred to in sub-section (2A) and the loss cannot be wholly set off in accordance with the provisions of that sub-section, the portion not so set off shall be carried forward to the following year and set off against capital gains for that year, and if it cannot be so set off, the amount thereof not so set off shall be carried forward to the following year and so on, so however that no such loss shall be so carried forward for more than six years :

Provided that where the loss sustained in any previous year does not exceed fifteen thousand rupees, it shall not be carried forward.'

Amendment
of section 38,
Act XI of
1922.

11. To section 38 of the said Act the following clause shall be added, namely :—

"(4) require any dealer, broker or agent or any person concerned in the management of a stock or commodity Exchange to furnish a statement of the names and addresses of all persons to whom he or the Exchange has paid any sum in connection with the sale, exchange or transfer of a capital asset, or on whose behalf or from whom he or the Exchange has received any such sum, together with particulars of all such payments and receipts."

Amendment
of section 42,
Act XI of
1922.

12. In section 42 of the said Act,—

(a) for the marginal heading the following shall be substituted, namely :—

"Income deemed to accrue or arise within British India";

(b) in sub-section (1), after the words "in cash or in kind," the words "or through or from the sale, exchange or transfer of a capital asset in British India," shall be inserted.

Amendment
of section 43,
Act XI of
1922.

13. To section 43 of the said Act the following *Explanation* shall be added, namely :—

"*Explanation*—A person, whether residing in or out of British India, who acquires, after the 28th day of February

1947, whether by sale, exchange or transfer, a capital asset in British India from a person residing out of British India shall, for the purposes of charging to tax the capital gain arising from such sale, exchange or transfer, be deemed to have a business connection, within the meaning of this section, with such person residing out of British India."

14. In clause (d) of sub-section (1) of section 58C of the said Act, after the words "securities purchased therewith," the words "and of any capital gains arising from the sale, exchange or transfer of capital assets of the fund," shall be inserted.

15. In section 58R of the said Act, after the words "deposits of an approved superannuation fund" the words "and any capital gains arising from the sale, exchange or transfer of capital assets of such fund" shall be inserted.

CHAPTER III

Amendments of Act XV of 1940.

16. In section 15 of the Excess Profits Tax Act, (hereafter in this Chapter referred to as the said Act), the words "within five years of the end of the chargeable accounting period in question" shall be omitted, and shall be deemed always to have been omitted.

17. After section 26 of the said Act the following section shall be inserted, namely:—

"26A. (1) If on an application made to it through the Excess Profits Tax Officer, the Central Board of Revenue is satisfied that a person who in a chargeable accounting period ending on the 31st day of March 1946, carried on a business the profits of which for any chargeable accounting period are charged with excess profits tax,—

(i) incurred during the period commencing on the 1st day of April 1946 and ending on the 31st day of December 1947, in connection with that business,—

- (a) expenditure on the removal of works constructed for protection against enemy attack ;
- (b) where under the orders of a competent authority the business was wholly or partly removed during the war, expenditure on again removing the business or part thereof ;
- (c) where any physical assets held for the purposes of the business were altered to adapt them to war conditions, expenditure on re-adapting them to normal requirements ;
- (d) expenditure in consequence of the termination of any contract for the supply of goods, materials or services, or the lease of buildings or machinery to him, where that contract is terminated by reason of the

Further powers of Central Board of Revenue to grant certain relief.

Amendment of section 58C, Act XI of 1922.

Amendment of section 58R, Act XI of 1922.

Amendment of section 15, Act XV of 1940.

Insertion of new section 26A in Act XV of 1940.

termination of a contract for the provision by him of goods, materials or services for the purposes of the war ; or

(ii) incurred during the period commencing on the 1st day of April 1946 and ending on the 31st day of December 1947, a loss on the sale of trading stock held on the 31st day of March 1946 for the purposes of the business ; or

(iii) incurred in any accounting period ending on or before the 31st day of March 1946 in connection with that business any expenditure referred to in the sub-clauses of clause (i) which, except under the provisions of this sub-section, is not allowable, either wholly or partly, in computing the profits of such accounting period :—

the Central Board of Revenue may direct that such allowance as it thinks just shall be made in computing the profits of the business during the chargeable accounting period ending on the 31st day of March 1946, and effect shall be given to such direction by repayment or otherwise, as the case may require :

Provided that in giving any such direction, the Central Board of Revenue may impose such conditions as it considers appropriate

Provided further that where the applicant satisfies the Central Board of Revenue that it was not possible to complete any work referred to in sub-clauses (a), (b) and (c) of clause (i) within the period specified in that clause, the Central Board of Revenue may extend the said period to such date as it considers reasonable :

Provided further that, where any change has taken place in the persons carrying on the business, the persons carrying it on after the change shall have the same right to make an application under this sub-section in respect of any expenditure referred to in sub-clause (b) and (c) of clause (i) as the persons previously carrying on the business would have had if there had been no such change.

(2) Where an accounting period included, but did not end on, the 31st day of March 1946, all expenditure referred to in the sub-clauses of clause (i) of sub-section (1) which would, apart from the provisions of this sub-section and rule 11 of Schedule I, be allowable as a deduction in computing the profits of the said accounting period, shall be treated for the purposes of sub-section (1) as if it were incurred after that day, and if an application is made under this section, no deduction from, or in computing, the profits of any accounting period or chargeable accounting period shall be allowed in respect of such expenditure otherwise than under sub-section (1).

(3) Where a change takes place in the persons carrying on a business, or a person carrying on a business, being a body corporate, becomes or ceases to be a subsidiary company or

principal company within the meaning of sub-section (6) of section 9, and where except for the happening of that event relief would be allowable under this section, the Central Board of Revenue may, if it thinks fit, allow such relief under this section as it considers just, having regard to the extent to which the persons directly or indirectly interested in the business or body corporate, as the case may be, before the change remain interested therein after the change."

18. To the first paragraph of rule 11 of Schedule I to the said Act the following proviso shall be added, namely :—

" Provided that where any loss or expenditure incurred during the period commencing on the 1st day of April 1946 and ending on the 31st day of December 1947 is reasonably and properly attributable, wholly or partly, to any chargeable accounting period or standard period, such deduction as appears to the Excess Profits Tax Officer to be reasonable shall be allowed in computing the profits of such chargeable accounting period or standard period ; and any relief accruing from such deduction shall be given by repayment or otherwise, as the case may require."

Amendment
of Schedule
I, Act XV
of 1940.