

# ACT No XII OF 1940.

[AS PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on  
the 26th March, 1940.)

## An Act to amend the law relating to Income-tax.

WHEREAS it is expedient to amend the law relating to income-tax for the purposes hereinafter appearing;

It is hereby enacted as follows:—

1. (1) This Act may be called the Income-tax Law Short title  
and extent. Amendment Act, 1940.

(2) It extends to the whole of British India.

711 of 1939. 2. In section 11 of the Indian Income-tax (Amend- Amendment of  
Act VII of  
1939. ment) Act, 1939, for clause (a) of sub-clause (iii) of clause (b) the following clause shall be substituted, namely:—

“(a) after the word “equivalent” the words “, where the assets are ships other than ships ordinarily plying on inland waters,” shall be inserted, and after the word “prescribed” the following words shall be added, namely:—

“and in any other case, to such percentage on the written down value thereof as may in any case or class of cases be prescribed”.

XI of 1922. 3. In section 35 of the Indian Income-tax Act, Amendment of  
section 35,  
Act XI of 1922. 1922 (hereinafter referred to as the said Act),—

(a) in sub-section (1),—

(i) after the words “assessment order” the words “or refund order” shall be inserted, and for the words “or assessment”

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the words "assessment or refund" shall be substituted;

(ii) in the first proviso, after the word "assessment" the words "or reducing a refund" shall be inserted;

(b) in sub-section (3), after the words "enhancing the assessment" the words "or reducing a refund" shall be inserted

Amendment of section 54, Act XI of 1922.

4. In sub-section (3) of section 54 of the said Act,—

(a) after clause (g) the following clause shall be inserted, namely:—

"(gg) of any such particulars, relevant to any inquiry into a charge of misconduct in connection with income-tax proceedings against a lawyer or registered accountant, to the authority referred to in sub-section (3) of section 61, when exercising the functions referred to in that sub-section,";

(b) in sub-clause (m), before the words "so much of such particulars" the word "of" shall be inserted.

Amendment of section 58S, Act XI of 1922.

5. In section 58S of the said Act, the words "and super-tax", in both places where they occur, shall be omitted.

Amendment of section 64, Act XI of 1922.

6. To section 64 of the said Act the following sub-section shall be added, namely:—

"(5) The provisions of sub-section (1) and sub-section (2) shall not apply and shall be deemed never at any time to have applied to any assessee—

(a) on whom an assessment or re-assessment for the purposes of this Act has been, is being or is to be made in the course of any case in respect of which a Commissioner of Income-tax appointed without reference to area under sub-section (2) of section 5 is exercising the functions of a Commissioner of Income-tax, or

(b) where

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(b) where by any distribution or allocation of work made by the Commissioner of Income-tax under sub-section (5) of section 5, a particular Income-tax Officer has been charged with the function of assessing that assessee, or

(c) who or whose income is included in a class of persons or a class of incomes specified in any notification issued under sub-section (6) of section 5,

but the assessment of such person, whether the proceedings for such assessment began before or after the 1st day of April, 1939, shall be made by the Income-tax Officer for the time being charged with the function of making such assessment by the Central Board of Revenue or by the Commissioner of Income-tax to whom he is subordinate, as the case may be."

7. After section 67A of the said Act the following section shall be inserted, namely:—

Insertion of new section 67B in Act XI of 1922.

"67B. If on the 1st day of April in any year provision has not yet been made by an Act of the Indian Legislature for the charging of income-tax for that year, this Act shall nevertheless have effect until such provision is so made as if the provision in force in the preceding year or the provision proposed in the Bill then before the Legislature, whichever is more favourable to the assessee, were actually in force."

Act to have effect pending legislative provision for charge of income-tax.

8. In the Schedule to the said Act, in paragraph (b) of the second rule, after the word "surplus", where it first occurs, the words "arrived at by adjusting the surplus or deficit" shall be inserted, and the words "after adjusting such surplus" shall be omitted.

Amendment of Schedule, Act XI of 1922.

9. No assessment made in accordance with sub-section (5) of section 64 of the said Act before the 30th day of December, 1939, and no proceedings taken in the course of, or for the purposes of, so making any assessment before that date shall be or continue to be invalid by reason of anything contained in sub-sections (1) and (2) of section 64 of the said Act.

Validity of certain assessments and proceedings made under Act XI of 1922.

10. The Income-tax (Removal of Difficulties and Validating) Ordinance, 1939, is hereby repealed.

Repeal of Ordinance IX of 1939.