

Finance Act 1994

Section 32 - Amendment of Section 115a

In section 115A of the Income-tax Act, with effect from the 1st day of April, 1995, -

(i) for sub-section (1), the following sub-section shall be substituted, namely :-

'(1) Where the total income of -

(a) a non-resident (not being a company) or of a foreign company, includes any income by way of -

(i) dividends; or

(ii) interest received from Government or an Indian concern on monies borrowed or debt incurred by Government or the Indian concern in foreign currency; or

(iii) income received in respect of units, purchased in foreign currency, of a Mutual Fund specified under clause (23D) of section 10 or of the Unit Trust of India,

the income-tax payable shall be aggregate of -

(A) the amount of income-tax calculated on the amount of income by way of dividends, if any, included in the total income, at the rate of twenty per cent.;

(B) the amount of income-tax calculated on the amount of income by way of interest referred to in sub-clause (ii), if any, included in the total income, at the rate of twenty per cent.;

(C) the amount of income-tax calculated on the income in respect of units referred to in sub-clause (iii), if any, included in the total income, at the rate of twenty per cent.; and

(D) the amount of income-tax with which he or it would have been chargeable had his or its total income been reduced by the amount of income referred to in sub-clause (i), sub-clause (ii) and sub-clause (iii);

(b) a foreign company, includes any income by way of royalty or fees for technical services received from Government or an Indian concern in pursuance of an agreement made by the foreign company with Government or the Indian concern after the 31st day of March, 1976, and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy, then, subject to the provisions of sub-sections (1A) and (2), the income-tax payable shall be the aggregate of, -

(A) the amount of income-tax calculated on the income by way of royalty, if any, included in the total income, at the rate of thirty per cent.;

(B) the amount of income-tax calculated on the income by way of fees for technical services, if any, included in the total income, at the rate of thirty per cent.; and

(C) the amount of income-tax with which it would have been chargeable had its total income been reduced by the amount of income by way of royalty and fees for technical services.

Explanation : For the purposes of this section, -

(a) "fees for technical services" shall have the same meaning as in Explanation 2 to clause (vii) of sub-section (1) of section 9;

(b) "foreign currency" shall have the same meaning as in the Explanation below item (g) of sub-clause (iv) of clause (15) of section 10;

(c) "royalty" shall have the same meaning as in Explanation 2 to clause (vi) of sub-section (1) of section 9;

(d) "Unit Trust of India" means the Unit Trust of India established under the Unit Trust of India Act, 1963 (52 of 1963).'

(ii) in sub-section (1A), for the words "approved by the Central Government or where the agreement relates to a matter", the words "the agreement is approved by the Central Government or where it relates to a matter" shall be substituted;

(iii) after sub-section (2), the following sub-sections shall be inserted, namely :-

"(3) No deduction in respect of any expenditure or allowance shall be allowed to the assessee under sections 28 to 44C and section 57 in computing his or its income referred to in sub-section (1).

(4) Where in the case of an assessee referred to in sub-section (1), -

(a) the gross total income consists only of the income referred to in clause (a) of that sub-section, no deduction shall be allowed to him or it under Chapter VI-A;

(b) the gross total income includes any income referred to in clause (a) of that sub-section, the gross total income shall be reduced by the amount of such income and the deduction under Chapter VI-A shall be allowed as if the gross total income as so reduced were the gross total income of the assessee.

(5) It shall not be necessary for an assessee referred to in sub-section (1) to furnish under sub-section (1) of section 139 a return of his or its income if -

(a) his or its total income in respect of which he or it is assessable under this Act during the previous year consisted only of income referred to in clause (a) of sub-section (1); and

(b) the tax deductible at source under the provisions of Chapter XVII-B has been deducted from such income."