

## Finance Act 1969

### Section 3 - Amendment of Section 2

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In section 2 of the Income-tax Act, in clause (18) for sub-clause (b), the following sub-clause shall be substituted with effect from the 1st day of April, 1970, namely :-

(b) if it is a company which is not a private company as defined in the Companies Act, 1956 (1 of 1956), and the conditions specified either in item (A) or in item (B) are fulfilled, namely :-

(A) shares in the company (not being shares entitled to a fixed rate dividend whether with or without a further right to participate in profits) were on the last day of the relevant previous year, listed in a recognised stock exchange in India in accordance with the Securities Contracts (Regulation) Act, 1956 (42 of 1956), and any rules made thereunder;

(B)(i) shares in the company (not being shares entitled to a fixed rate dividend whether with or without a further right to participate in profits) carrying not less than fifty per cent. of the voting power have been allotted unconditional to, or acquired unconditionally by, and were throughout the relevant previous year beneficially held by -

(a) the Government, or

(b) a corporation established by a Central, State or Provincial Act, or

(c) any company to which this clause applies or any subsidiary company of such company where such subsidiary company fulfils the conditions laid down in clause (b) of section 108 (hereafter in this clause referred to as the subsidiary company), or

(d) the public (not being a director, or a company to which this clause does not apply);

(ii) the said shares were, during the relevant previous year, freely transferable by the holder to the other members of the public; and

(iii) the affairs of the company, or the shares carrying more than fifty per cent. of its total voting power were at no time, during the relevant previous year, controlled or held by five or less persons.

Explanation 1 : In computing the number of five or less persons aforesaid, -

(i) the Government or any corporation established by a Central, State or Provincial Act or a company to which this clause applies or the subsidiary company of such company shall not be taken into account, and

(ii) persons who are relatives of one another, and persons who are nominees of any other person together with that other person, shall be treated as a single person.

Explanation 2 : In its application to an Indian company whose business consists mainly in the construction of ships or in the manufacture or processing of goods or in mining or in the generation or distribution of electricity or any other form of power, item (B) shall have effect as if for the words "not less than fifty per cent." and "more than fifty per cent.", the words "not less than forty per cent." and "more than sixty per cent." had, respectively, been substituted;