Deductions and Exemptions — Income-tax Bill, 2025


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Overview

Income-tax Bill, 2025 (ITB) is introduced in the Parliament with an avowed object of making the law simple and understandable that avoids dispute and litigation. The provisions relating to deductions and exemptions introduced in the ITB are broadly similar to Chapter VI-A and sec. 10A of the Income-tax Act, 1961 (Act) with a few changes. It is critical to analyse and understand how this transition effects implementation of the law and its interpretation in the ITB regime. In order to remove practical difficulties and ensure a smooth transition from the Act clause 535 of the ITB empowers the Central Government to issue any general or special orders, do anything not inconsistent with the provisions which appears to it to be necessary or expedient. Three years from 1st April 2026, the date on which ITB is expected to become effective, is the time limit for passing any such orders under clause 535 of the ITB by Central Government for removing any practical difficulties. Clause 536 of the ITB which is titled "Repeal and Savings" ensures a smooth transition from the Act to the ITB by preserving the continuity of rights, obligations and proceedings and thereby protects the interests of both taxpayers and revenue. In this backdrop this article outlines the key changes, revisits the basic principles and highlights some attendant issues.

1.0 Introduction

The Hon'ble Finance Minister presented Income-tax Bill, 2025 in the parliament on 13 February 2025. The main objective is to reduce dispute and litigation for the purpose of which the provisions are proposed in concise, clear and easier manner to read and understand. We propose to deal with provisions dealing with deductions and exemptions. The provisions relating to deductions that are presently in Chapter VI-A of Income-tax Act, 1961 (Act) are correspondingly introduced as Clauses 122-154 of the Income-tax Bill, 2025 (ITB). Income not forming part of the total income as per sec. 10 of the Act are correspondingly placed in the ITB in clause 11 read with schedules II-VII. It is essential to understand how these provisions are being dealt with in the light of any variation in the text of provision and related interpretation etc. It is evident that the government has been discouraging deductions under the new tax regime since the last 4-5 years and in the same manner tax holiday provisions that are part of sec. 10 of the Act are also being phased out. In this backdrop it is to be analysed as to how these provisions

are proposed to be dealt with in the ITB. In this article provisions dealing with non-residents covered in Schedule IV and some related items in other schedules are not being discussed here as there is an exclusive article being written by another author on the said topic. It is proposed to discuss only the key changes between the provisions under the Act in comparison with the corresponding clauses of ITB.

2.0 Exemptions - Sec. 10 of the Act - Clause 11 read with Schedules

2.1 Section 10(10) of the Act - Sch. III(38): Death-cum-retirement Gratuity:

Similar provisions have been provided in clause 19(1) sl. no. 3 r.w.s 19(2)(g) followed by sl. no. 4,5 and 6. One has to read Sec. 19(2)(a) and 19(2)(b) though the provision in the Act has been retained in the ITB. One needs to go through the clause and the corresponding provisions in the schedule which looks more cumbersome than the existing pattern.

2.2 Section 10(10D)-Sch II(2): Life insurance/ULIP maturity proceeds:

Provisions with respect to maturity proceeds of LIC and ULIP have been provided in Sch II(2) of ITB which are similar to that of 10(10D) of the Act. Criteria relating to Unit linked Insurance plan on or after 01-04-2023 has been dealt with clearly in Sch II(2) which is mentioned as under:

Exemption of ULIP maturity proceeds if:

- Premium to sum assured ratio is <=15% for special policies and 10% for other policies; and
- Aggregate for premium for all such policies (in all tax years during the term of all policies) <=2,50,000

Other than ULIP :

- Premium to sum assured ratio is <=15% for special policies and 10% for other policies; and
- Aggregate for premium for all such policies (in all tax years during the term of all policies) <=5,00,000

However, it is now provided that any sum received under a life insurance policy issued by an IFSC Insurance Intermediary office shall be exempt without reference to the conditions regarding the maximum amount of premium or aggregate amount of premium payable on such policy. However, the condition that the premium payable for any of the year during the term of the policy to not exceed 10% of the actual capital sum assured, continues to apply.

2.3 Section 10(12B) – Sch III(4): Partial withdrawal of amount from National Pension System Trust:

Partial withdrawal from NPS hitherto provided under sec. 10(12B) of the Act is being provided under Sch III(4)of the ITB. NPS Vatsalya scheme has been added under sub sec. (1B) of 80CCD through Finance Bill 2025. An assessee would be allowed deduction under 80CCD even in respect of deposits made into minors account (up to 2 children). However, the aggregate deduction allowable to assessee including that of a minors would be at maximum of ₹ 50,000 per year which has been clarified through FAQ 16-Q.3 along with Finance Bill 2025. It is provided as under with respect to withdrawal from NPS:

Any payment from the National Pension System Trust under the pension scheme is dealt with by new sub section 12BA of section 10 of the Act through Finance Bill 2025. The same has been provided in Sch III(4) which is as under:

Any employee or assessee being the guardian or parent of a minor.

a) Such payment is on partial withdrawal made out of his account or the account of the minor, as per the terms and conditions specified under the Pension fund Regulatory Act, 2013 (23 of 2013) and the regulations made thereunder; and

b) Exclusion shall not exceed 25% of the amount of contribution made by him.

2.4 Section 10(34B)-Sch VI (11): Dividend received by a unit in IFSC engaged in Aircraft/Ship leasing:

Sec. 10(34B) of the Act deals with a unit of IFSC primarily engaged in business of aircraft leasing receiving income by way of dividend from a company also being a unit of IFSC primarily engaged in business of aircraft leasing. It is now proposed under Sch VI(11) of ITB that this requirement of specific business of aircraft leasing has been extended to ship leasing as well in respect of both the dividend receiving unit and dividend paying unit of IFSC. In other words, both receiving and paying units should be engaged in same line of activity of Aircraft/ship leasing which has already been proposed by Finance Bill, 2025.

An interesting question that may arise is whether the tax exemption would still be allowable in a case where the dividend receiving unit is engaged in aircraft leasing activity whereas the dividend paying unit is engaged in ship leasing activity or *vice versa*?

3.0 Section 10AA- Clause 144: Tax holiday for SEZ units

Tax holiday in respect of SEZ units under section 10AA of the Act is phased out by inserting a sunset clause with respect to commencement of manufacturing by the units of SEZ to be on or before 1st April 2021. In order to facilitate the transition of this provision into ITB, clause 144 has been proposed to provide that the deduction under this provision of the Act would be available only for such number of tax years as would have been allowed under the Act if the said Act has not been repealed.

Explanation added by the Finance Act 2017 (which is effective from AY 2018-19) to sub-section 1 of 10AA reads as under:

For the removal of doubts, it is hereby declared that the amount of deduction under this section shall be allowed from the total income of the assessee computed in accordance with the provisions of this Act, before giving effect to the provisions of this section and the deduction under this section shall not exceed such total income of the assessee.

On the basis of Explanation, it is a deduction to be made from the total income computed in accordance with the provisions of the Act before giving effect to the provisions of sec. 10AA. The deduction in no case shall exceed the said total income.

Relief under sec. 10AA meant for exports cannot include in its purview turnover which is unbilled with consideration not received within 6 months from close of the financial year in which the export was made ***– BT-E-Serev (India) Pvt Ltd vs. ITO (2017) 60 ITR (Trib) 618 (DEL).***

Income from a unit in Special Economic Zone is exempt even if the activities is one of trading in course of import and re-export ***– DCIT vs. Bommidala Enterprises Pvt Ltd (2017) 164 ITD 306 (Visakhapatnam-Trib)***

Trading, warehousing and consultancy activities fall under the definition of "service" as per SEZ rules and hence eligible for deduction under sec. 10AA ***Midas DFS (P) Ltd vs. ITO (2018) 96 taxmann.com 351 (KOL-Trib)*** whereas Cochin bench of the ITAT held that activity of the assessee engaged in import of cigars and cigarettes and exporting it to duty free shops was not treated as either manufacturing or service so as to claim deduction under sec. 10AA- ***Crossings International Distributions [(TS)-(719-ITAT-2019 (KOCH)]***

The Hon'ble Supreme Court in ***CIT vs. Bommidala Enterprises Pvt Ltd (2016) 389 ITR 1 (SC)*** held that whether trading activity is a "service" in the context of sec. 10AA of the Act was not merely a question of fact, but is a question of law as well and remanded the matter back to the Andhra Pradesh High Court to go into the question of claim of exemption under sec. 10AA on the basis that it would be a question of law as well.

4.0 Deductions Chapter VI-A of the Act - Chapter VIII (clause 122-154) of ITB

4.1 Section 80C-Clause 123- Deduction in respect of life insurance premia, deferred annuity, contributions to provident fund, subscription to certain equity shares or debentures, etc.:

In the present sec. 80C of the Act in respect of an assessee being an individual or a Hindu undivided family, contribution made to LIC, deferred annuity etc. are allowed as deduction up to ₹ 1,50,000/- and the same provision has been inserted in schedule XV read with clause 123. The essence of this popular provision is retained in the new clause 123 of the ITB as well.

4.2 Section 80CCD- Clause 124 - Deduction in respect of contribution to pension scheme of Central Government:

A deduction for contributions to the National Pension Scheme (NPS) is available for deposits made by a guardian into a minor's account (NPS Vatslya), subject to a limit of ₹ 50,000. Additionally, any amount withdrawn from the account upon the minor's death is not taxable in the hands of the guardian. It helps in creation of wealth and financial security for the minor together with tax benefits to the guardian.

NPS Vatsalya scheme has been added under sub-sec. (1B) of 80CCD through Finance Bill 2025. An assessee would be allowed deduction under 80CCD even in respect of deposits made into minors account (up to 2 children). However, the aggregate deduction allowable to assessee including that of a minors would be at maximum of ₹ 50,000 per year which has been clarified through FAQ 16-Q.3 along with Finance Bill 2025.

4.3 Section 80G - Clause 133: Deduction in respect of donations to certain funds, charitable institutions, etc:

In respect of donations as provided in clause 133 of ITB an additional clarification is given with respect to a new fund for investment as "Any regimental fund or Non-Public fund established by the Armed forces of the Union for the welfare of the past and present members of the Armed forces or their dependents" mentioned in Schedule VII(1).

4.4 Section 80IAC- Clause 140- Special provision in respect of specified business:

Section 80-IAC of the Act provided tax benefits to Start-ups incorporated between 1st

April 2016, and 1st April 2025. Clause 140 of ITB extends this period, allowing start-ups incorporated up to 1st April 2030, to qualify for deductions. This will foster innovation and economic growth. The provisions of sub-sections (5) and (7) to (11) of section 80-IA referred to in section 80-IAC have been directly incorporated in clause 140 of the ITB.

This extension has been proposed in the Finance Bill 2025 also.

4.5 Section 80LA - Clause 147: Deductions in respect of certain incomes of Offshore Banking Units and International Financial Services Centre:

The sunset date for commencement of operation of IFSC unit of Sec. 80LA(2)(d) has been extended from 31st March 2025 to 31st March 2030. This extension has been provided even in the Finance Bill 2025. This is part of the extension of sunset date for various other clauses relating to IFSC units.

4.6 Section 80M- Clause 148: Deduction in respect of certain inter-corporate dividends:

This provision allows for a deduction on the amount of dividend received by a domestic company from another domestic company, a foreign company, or a business trust, provided the dividend is distributed on or before one month prior to the due date for filing the income tax return.

However, if the domestic company has opted for the concessional tax rate under clause 200 (sec. 115BAA of the ACT), such company will not be eligible for the deduction under clause 148 (sec. 80M of the Act).

This proposal under clause 200 is unfair, as it is essential to remove the cascading effect of dividend taxation for every distribution if the same amount is passed down as dividend. Hence it is a strong case for representation to include clause 148 (80M of the Act) deduction as allowable in spite of claiming the concessional tax rate under clause 200.

4.7 Section 80TTA and 80TTB- Clause 153- Deduction in respect of interest on deposits in savings account:

This clause clubbed the deductions in respect of interest income earned by an individual from savings account and other deposits (for senior citizens) which are currently covered under sec. 80TTA and 80TTB of the Act.

5.0 Basic principles and issues relating to Deductions

In view of Chapter VI-A deductions of the Act being replicated in the ITB the jurisprudence in the context of Chapter VI-A deductions would be relevant for judicial precedence and guidance. It is therefore essential to go through some of the basic principles and the corresponding ratio laid down by the Courts of Law.

5.1 Deductions to be made from Gross total income:

The wording under Clause 121(1) refers to Gross total income from which the deductions are to be allowed (Sec. 80A of the Act). For the purpose of Chapter VI-A the gross total income has to be computed, inter alia, by deducting the deductions allowable under sec. 30 to 43D of the Act, including depreciation allowable under sec. 32 of the Act, even though the assessee has computed the total income under Chapter IV by disclaiming the current depreciation. ***Plastiblends India Ltd vs. ACIT (2009) 318 ITR 352(Bom) (FB).***

The Hon'ble Court distinguished the decision of Supreme Court in ***CIT vs. Mahendra Mills (2000) 243 ITR 56 (SC)*** and held that

an assessee will not be eligible to claim a higher deduction under Chapter VI-A by disclaiming the current depreciation. This decision was further endorsed by the Supreme Court in ***Plastiblends India Ltd (2017) 86 taxmann.com 137(SC),*** wherein it was held that sec. 80IA of the Act is a complete code in itself and accordingly the profits of the business have to be computed after making the requisite expenditure and allowances. In other words deduction linked to profits cannot be claimed on inflated profit by not claiming certain items of eligible expenditure. In a different case it had been held by the Apex Court that deductions under Chapter VI-A are from gross total income and not from income under any head – ***CIT vs. Williamson Financial Services (2008) 297 ITR 17 (SC)***.

Deductions under Chapet VI-A are distinct from "Incomes not included in total income"- ***Sundaram Clayton Ltd vs. CIT (1996) 220 ITR 281 (SC), CIT vs. JK Synthetics Ltd (1983) 143 ITR 396 (ALL)***.

Unabsorbed depreciation and carry forward losses are to be set off in arriving at the gross total income and if such gross total income becomes nil after such set off, the assessee was held not entitled to any of the relief under Chapter VI-A of the Act- ***Synco Industries Ltd vs. AO(IT) (2008)299 ITR 144 (SC).***

5.2 Deductions not to exceed "The gross total income":

The aggregate amount of deduction that can be made under Chapter VI-A should not exceed "the gross total income" of the assessee. If such gross total income is found to be at a net loss on account of the assessee's performance, no deductions under Chapter VI-A shall be allowed – ***Cloth Traders (P) Ltd vs. CIT (Addl) (1979) 118 ITR 243 (SC).***

If certain deductions are claimed in the hands of firm, Association of Persons (AOP) or a Body of Individuals (BOI) no further deductions under these sections shall be made in the hands of any partner of such firm or a member of AOP or BOI in their personal tax returns.

5.3 No ordering rule for claim of deductions:

The statute does not prescribe any ordering rule in which various deductions are to be allowed. It is for the assessee to claim in his own manner to derive the best advantage. There were few provisions in the past like Sec 80HH (9), 80-I (3) (as it stood before 1st April 1973) and 80J (3) of the Act wherein some priorities were indicated for claim of the same.

5.4 Inter head Set off of current year before claiming deductions:

On the basis of each relief giving provision, it is to be understood that each section providing a deduction or relief is a code by itself. The deduction would be available only if such eligible income earning unit results in profit in the year under consideration. If it is a loss no deduction or relief can be claimed. In a case where one of the eligible units results in profit whereas other eligible units result in loss, is it mandatory to set off the profit and loss inter-unit per se, so as to arrive at the net profit for the purpose of claim of deduction. This issue has been addressed by the Apex Court in ***CIT vs. Canara Workshops (P) Ltd (1986) 161 ITR 320 (SC)*** wherein it was held that such set off of inter-unit is not warranted, since the relief for successful undertaking cannot be diluted, merely because of the accident of the assessee running some other losing undertaking eligible for relief under the same section. This issue was further examined by the Hon'ble Apex Court by considering the ratio laid down in ***Synco Industries case (supra)***, ***Canara Workshop case (supra)*** and thereafter held that such inter-unit/undertaking set off is

impermissible. The deduction determined in sec. 80IA of the Act in the said case was held to be fully allowed in respect of such undertaking subject only to the overall limit of gross total income-***Reliance Energy Ltd (2021) 127 taxmann.com 69 (SC).***

5.5 Assessee eligible for relief under two different deductions for the same eligible activity:

In such a scenario there is no restriction on tax payer and he would be entitled to claim relief under both provisions subject to such aggregate relief from both the deduction put together should not exceed income of the eligible undertaking- ***JP Tobacco Products Pvt Ltd vs. CIT (1998) 229 ITR 123 (MP).***

A special leave petition against the said order was dismissed – ***(2000) 245 ITR (St) 71.***

5.6 80A(5) -Clause 122(5): Assessee to make a claim of relief/deduction:

It is mandatory for an assessee to make his claim of deduction in the return to be filed, if such claim is not made as per sub sec. 5, he would lose the right of such claim. ***EBR Enterprise vs. Union of India (2018) 107 taxmann.com 220 (BOM).***

A very interesting and vexed issue in this context is that whether an assessee can make a fresh claim of deduction in the return filed under sec. 153A (post search filing the return). There are number of judgements in favour/ against the assessee in this context. Hence the matter was referred to a Special Bench of ITAT Hyderabad, wherein it was ruled that in case of an abated assessment, fresh claim can be made under Chapter VI-A of the Income-tax Act, 1961, for the first time, in the return of income filed in response to the notice issued under sec. 153A of the Act, pursuant to a search conducted under sec. 132 of the Act. In case of unabated/completed assessment no fresh claims can be made under Chapter VI-A of the Act for the first time in the return of income filed in response to the issued notice under sec. 153A of the Act-***DCIT vs. SEW Infrastructure Ltd (2024) 167 taxmann.com 446 (Hyderabad-Trib) (SB).***

6.0 Transfer Pricing-inter-unit/undertaking transfer of goods or services at market value

It is essential that inter-unit transfer should happen at the market value so as to comply with the arm's length principle. Assessing officer would be within his right to recompute the profit of an undertaking if such transfers are not at arm's length/market value. These transactions would be covered as specified domestic transactions under section 92BA of the Act-Clause 164 of ITB and should comply with the obligations cast upon the taxpayer under the transfer pricing regulations.

7.0 Conclusion

The object and purpose of the Income Tax Bill 2025 has been explained in the introduction of this article. It is always a matter of concern whether the existing judicial precedence would be appropriate and applicable even in the context of provisions under the ITB, more so when similar wording continues in the provisions of the ITB. In view of the same the taxpayer is obliged to make a very critical comparison of the provisions of the Act with that of the ITB word by word and letter by letter. Now that the ITB is referred to the Select Committee of the Parliament we need to wait for the final version after considering the suggestions of all the stakeholders.

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