

# ACT No. III OF 1928.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the  
13th March, 1928.)

## An Act further to amend the Indian Income-tax Act, 1922, for certain purposes.

of 1922. **W**HEREAS it is expedient further to amend the Indian  
Income-tax Act, 1922, for certain purposes hereinafter  
appearing; It is hereby enacted as follows:—

1. (1) This Act may be called the Indian Income-tax Short title and  
(Amendment) Act, 1928. commencement.

(2) It shall come into force on the 1st day of April, 1928.

of 1922. 2. In sub-section (2) of section 10 of the Indian Income-tax Amendment of  
Act, 1922 (hereinafter referred to as the said Act),— section 10,  
Act XI of  
1922.

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

“ (viii) in respect of animals which have been used  
for the purposes of the business otherwise than  
as stock in trade and have died or become per-  
manently useless for such purposes, the differ-  
ence between the original cost to the assessee of  
the animals and the amount, if any, realised  
in respect of the carcasses or animals ”; and

(b) after clause (ix) the following proviso shall be insert-  
ed, namely:—

“ Provided that nothing in clause (viii) or clause (ix)  
shall be deemed to authorise the allowance of  
any sum paid on account of any cess, rate or  
tax levied on the profits or gains of any  
business or assessed at a proportion of or other-  
wise on the basis of any such profits or gains.”

3. In clause (b) of sub-section (2) of section 14 of the said Amendment of  
Act, after the words “ his share in the firm ” the words “ at  
the time of such assessment ” shall be added. section 14,  
Act XI of  
1922. X

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Insertion of  
new section  
26A in Act XI  
of 1922.

Assessment  
after partition  
of a Hindu  
undivided  
family.

4. After section 25 of the said Act the following section shall be inserted, namely:—

“ 25A. (1) Where, at the time of making an assessment under section 23, it is claimed by or on behalf of any member of a Hindu family hitherto undivided that a partition has taken place among the members of such family, the Income-tax Officer shall make such inquiry thereinto as he may think fit, and, if he is satisfied that a separation of the members of the family has taken place and that the joint family property has been partitioned among the various members or groups of members in definite portions before the end of the previous year, he shall record an order to that effect:

Provided that no such order shall be recorded until notices of the inquiry have been served on all the members of the family.

(2) Where such an order has been passed, the Income-tax Officer shall make an assessment of the total income received by or on behalf of the joint family as such, as if no separation or partition had taken place, and each member or group of members shall, in addition to any income-tax for which he or it may be separately liable and notwithstanding anything contained in sub-section (1) of section 14, be liable for a share of the tax on the income so assessed according to the portion of the joint family property allotted to him or it;

and the Income-tax Officer shall make assessments accordingly on the various members and groups of members in accordance with the provisions of section 23:

Provided that all the separated members and groups of members shall be liable jointly and severally for the tax assessed on the total income received by or on behalf of the joint family as such.”

Amendment of  
section 26, Act  
XI of 1922.

5. For section 26 of the said Act the following section shall be substituted, namely:—

Change in  
constitution  
of a firm.

“ 26. (1) Where, at the time of making an assessment under section 23, it is found that a change has occurred in the constitution of a firm or that a firm has been newly constituted, the assessments on the firm and on the members thereof shall, subject to the provisions of this Act, be made as if the firm had been constituted throughout the previous year

as

as it is constituted at the time of making the assessment, and as if each member had received a share of the profits of that year proportionate to his interest in the firm at the time of making the assessment.

- (2) Where, at the time of making an assessment under section 23, it is found that the person carrying on any business, profession or vocation has been succeeded in such capacity by another person, the assessment shall be made on such person succeeding, as if he had been carrying on the business, profession or vocation throughout the previous year, and as if he had received the whole of the profits for that year.”

Change of ownership of business.

6. In sub-section (1) of section 35 of the said Act,—

Amendment of section 35, Act XI of 1922.

- (a) before the words “ The Income-tax Officer may ” the following words shall be inserted, namely:—

“ The Commissioner or Assistant Commissioner may, at any time within one year from the date of any order passed by him in appeal or, in the case of the Commissioner, in revision under section 33 and ”;

- (b) for the words “ of the assessment ” the words “ of the appeal, revision or assessment, as the case may be, ” shall be substituted;

- (c) for the words “ such assessee ” the words “ the assessee ” shall be substituted; and

- (d) in the proviso, for the words “ the Income-tax Officer ” the words “ the Commissioner, the Assistant Commissioner or the Income-tax Officer, as the case may be, ” shall be substituted.

7. In section 42 of the said Act, the following sub-section shall be added, namely:—

Amendment of section 42, Act XI of 1922.

“ (3) Where any profits or gains have accrued or arisen to any person directly or indirectly from the sale in British India by him or by any agency or branch on his behalf of any merchandise exported to British India by him or any agency or branch on his behalf from any place outside British India, the profits or gains shall be deemed to have accrued and arisen and to have been received in British India, and no allowance shall

*Indian Income-tax (Amendment).* [ACT III OF 1928.]

shall be made under sub-section (2) of section 10 in respect of any buying or other commission whatsoever not actually paid, or of any other amounts not actually spent, for the purpose of earning such profits or gains."

Amendment of  
section 46,  
Act XI of  
1922.

8. After sub-section (1) of section 46 of the said Act the following sub-section shall be inserted, namely:—

"(1A) For the purposes of sub-section (1), the Income-tax Officer may direct the recovery of any sum less than the amount of the arrears and may enhance the sum so directed to be recovered from time to time in the case of a continuing default, so however that the total sum so directed to be recovered shall not exceed the amount of the arrears payable."

Amendment of  
section 48,  
Act XI of  
1922.

9. In section 48 of the said Act, the following sub-sections shall be added, namely:—

"(4) For the purposes of this section, 'total income' includes, in the case of any person not resident in British India, all income, profits and gains wherever arising, accruing or received, which, if arising, accruing or received in British India, would be included in the computation of total income under section 16.

(5) Nothing in this section shall entitle to any refund any person not resident in British India who is neither a British subject as defined in section 27 of the British Nationality and Status of Aliens Act, 1914, nor a subject of a State in India." 4 & 5 Geo. 5, c. 17.

Amendment of  
section 56,  
Act XI of  
1922.

10. The proviso to section 56 of the said Act shall be omitted.

Amendment of  
section 66,  
Act XI of  
1922.

11. In the proviso to sub-section (2) of section 66, for the word "review" the word "revision" shall be substituted.