

APPENDIX I

THE NINTH SCHEDULE¹

[SEE SECTION 32(1) (vi)² [***]]

List of Articles or Things

1. Iron and Steel (metal)
2. Non-ferrous metals
3. Ferro-alloys and special steels
4. Steel castings and forgings and alloy, malleable and S.G. iron castings³
5. Thermal and hydro-power generation equipment
6. Transformers and switch gears
7. Electric motors
8. Industrial and agricultural machinery
9. Earth-moving machinery
10. Machine tools
11. Fertilisers, namely, ammonium sulphate, ammonium sulphate nitrate (double salt), ammonium nitrate, calcium ammonium nitrate (nitrolime stone), ammonium chloride, superphosphate, urea and complex fertilisers of synthetic origin containing both nitrogen and phosphorus, such as ammonium phosphates, ammonium sulphate phosphate and ammonium nitrophosphate.
12. Soda ash
13. Caustic soda
14. Commercial vehicles
15. Ships
16. Aircraft
17. Tyres and tubes
18. Paper, pulp and newsprint
19. Sugar
20. Vegetable oils

21. Textiles (including those dyed, printed or otherwise processed) made wholly or mainly of cotton, including cotton yarn, hosiery and rope
22. Textiles (including those dyed, printed or otherwise processed) made wholly or mainly of jute, including jute twine and jute rope
23. Cement and refractories
24. Pesticides⁴
25. Carbon and graphite products⁵
26. Inorganic heavy chemicals (other than soda ash and caustic soda mentioned in items 12 and 13, respectively)
27. Organic heavy chemicals
28. Synthetic rubber and rubber chemicals (including carbon black)
29. Industrial explosives
30. Basic drugs
31. Industrial sewing machines
32. Finished leather and leather goods (including footwear made wholly or mainly of leather)
33. Electronic components and raw materials; computers and peripherals; communication equipment; process control, instrumentation, industrial and professional grade electronic equipment⁶

[*Explanation:* The article specified in item 24 does not include any formulation of pesticides unless the formulation is prepared by the manufacturer or producer of the basic pesticidal chemicals from which such formulation has been prepared]⁷

REFERENCES TO APPENDIX I

1. Inserted by the Direct Taxes (Amendment) Act, 1974, w.e.f. 1-4-1975.
2. "and section 80M (1) (a) (i)" omitted by the Finance Act, 1984, w.e.f. 1-4-1985 which expression was earlier substituted for "section 32A(2) (b) (ii)" by the Finance (No. 2) Act, 1977, w.e.f. 1-4-1978, which expression was inserted by the Finance Act, 1976, w.e.f. 1-4-1976.

3. Substituted for "Steel castings and forgings and malleable iron and steel castings" by the Finance Act, 1976, w.e.f. 1-4-1976.
4. Inserted by the Finance Act, 1975, w.e.f. 1-4-1976.
5. Inserted by the Finance Act, 1976, w.e.f. 1-4-1976.
6. Inserted by the Finance Act, 1981, w.e.f. 1-4-1982.
7. Inserted by the Finance Act, 1975, w.e.f. 1-4-1976.

APPENDIX II

THE ELEVENTH SCHEDULE¹

[SEE SECTION 32A], [SECTION 32AB,]² [SECTION 80CC
(3) (a) (i), SECTION 80-I(2)]³ and [SECTION
80J(4)]⁴

List of Articles or Things

1. Beer, wine and other alcoholic spirits
2. Tobacco and tobacco preparations, such as, cigars and cheroots, cigarettes, biris, smoking mixtures for pipes and cigarettes, chewing tobacco and snuff
3. Cosmetics and toilet preparations
4. Toothpaste, dental cream, tooth powder and soap
5. Aerated waters in the manufacture of which blended flavouring concentrates in any form are used.
6. Confectionery and chocolates
7. Gramophones, including record-players, and gramophone records
8. [***]⁵
9. Cinematograph films and projectors
10. Photographic apparatus and goods
- 11-21. [***]⁶
22. Office machines and apparatus such as typewriters, calculating machines, cash registering machines, cheque writing machines, intercom machines and teleprinters
[*Explanation:* The expression "office machines and apparatus" includes all machines and apparatus used in offices, shops, factories, workshops, educational institutions, railway stations, hotels and restaurants for doing office work, for data processing and for transmission and reception of messages.]

23. Steel furniture, whether made partly or wholly of steel
24. Safes, strong boxes, cash and deed boxes and strong room doors.
25. Latex foam sponge and polyurethane foam
26. [***]⁷
27. Crown corks, or other fittings of cork, rubber, polyethylene or any other material
28. Pilfer-proof caps for packaging or other fittings of cork, rubber, polyethylene or any other material
29. [***]⁸.

REFERENCES TO APPENDIX II

1. Inserted by the Finance (No. 2) Act, 1977, w.e.f. 1-4-1978.
2. Shall be inserted by the Finance Act, 1986, w.e.f. 1-4-1987.
3. Inserted by the Finance Act, 1981, w.e.f. 1-4-1981.
4. Inserted by the Finance Act, 1979, w.e.f. 1-4-1979.
5. Omitted by the Finance Act, 1981, w.e.f. 1-4-1982. Prior to omission of item 8, it read as under:
“Broadcast television receiver sets; radios (including transistor sets); radiograms and tape recorders (including cassette recorders and tape decks).”
6. Omitted by the Finance Act, 1981, w.e.f. 1-4-1982. Prior to omission of items 11 to 21 they read as under:
“11. Electric fans
12. Domestic electrical appliances, not falling under any other item in this list.
[*Explanation*: “Domestic electrical appliances” means electrical appliances normally used in the household and similar appliances used in places, such as, hotels, restaurants, hostels, offices, educational institutions and hospitals.]
13. Household furniture, utensils, crockery and cutlery not falling under any other item in this list
14. Pressure cookers
15. Vacuum flasks and other vacuum vessels
16. Tableware and sanitaryware
17. Glass and glassware
18. Chinaware and porcelainware
19. Mosaic tiles and glazed tiles
20. Organic-surface active agents: surface active preparations and washing preparations whether or not containing soap.
21. Synthetic detergents.”

7. Omitted by the Finance Act, 1981, w.e.f. 1-4-1982. Prior to omission of item 26, it read as under:
“Pigments, colours, paints, enamels, varnishes, blacks and cellulose lacquers.”
8. Omitted by the Finance Act, 1981, w.e.f. 1-4-1982. Prior to omission of item 29, it read as under:
“Amplifiers or any other apparatus used for addressing the public”.

APPENDIX III

INVESTMENT ALLOWANCE AND INVESTMENT TAX CREDIT IN OTHER COUNTRIES

Australia¹

Investment allowance (18-40 per cent for capital expenditure exceeding A \$ 500) is available in respect of "eligible property" or an eligible Australian ship which was ordered or the construction of which was commenced on or after January 1, 1976 and before July 1, 1985 and which is first used or is installed ready for use before July 1, 1987. Basically, the "eligible property" is new "plant or articles" as defined for purposes of depreciation allowances with certain specific exclusions, e.g., furniture and furnishings, cars, small commercial vehicles, tools and appliances of a kind ordinarily used for household purposes.

The eligible property must be acquired or constructed by the taxpayer company for its use wholly and exclusively in Australia for the purpose of producing assessable income. A leasing company is permitted investment allowance in respect of eligible property leased for 4 years or more. However, should the lessor-owner and the lessee agree, the former may pass all or part of the allowance on to the lessee.

The investment allowance is denied if the property is disposed of within 12 months. Even where the property is disposed of after 12 months, investment allowance may be denied if it is found that the property was intended to be disposed of at the time of purchase. In well defined circumstances, the 12-month retention requirement is not applicable to the disposal of a plant as part of reorganisation of a public company. The investment allowance has been terminated for expenditure incurred under contracts entered into after June 30, 1985.

Canada²

Following a policy of fiscal restraint, the February 1986 federal budget announced several corporate tax changes proposed in a discussion paper "The Corporate Income Tax System: A Direction for Change" presented along with May 1985 budget. A phased-in reduction in statutory corporate tax rates over three years is accompanied by a phasing out of general investment tax credit over the following three years. However, investment tax credit for research and development and for investment in the Atlantic region is retained.

Federal Republic of Germany³

Under the Berlin Development Law, a company with a permanent establishment in West Berlin may claim a tax-free premium of 25 per cent of the cost of new (a) depreciable movable fixed assets used in West Berlin for at least 3 years for manufacturing purposes and (b) computer equipment acquired by both the manufacturing and service industries, provided most of their customers are outside West Berlin. The premium is 40 per cent in respect of the cost of new movable fixed assets used for research and development purposes. If the investment exceeds 500,000 DM the investment premium on the excess is limited to 30 per cent. Automobiles and items costing individually upto 800 DM are generally excluded.

The Investment Premium Law provides for tax-free premiums of 8.75 per cent, or 10 per cent of the cost of investment for new depreciable fixed assets in certain regions. It also provides for premiums varying from 7.5 per cent to 20 per cent of the cost of investment in new depreciable fixed assets used for research and development purposes and production and distribution of energy.

More than one of the above premiums for investment may not be claimed in respect of the same asset. However, this restriction does not apply to the premiums for investment in fixed assets for the production and distribution of energy. An additional investment premium available to the German iron and steel industry allows eligible taxpayers to claim a 10 per cent tax-free investment allowance for cost of acquisition or manufacture of new movable assets and the additional costs of previously acquired assets, provided the assets remain in the

taxpayer's enterprise for at least 3 years. The new law applies to assets for which orders have been placed after July 30, 1981 and are acquired or manufactured, etc., before January 1, 1986, and to additional or extension work and advance payments made upto January 1, 1986, provided the assets are acquired or manufactured by January 1, 1989.

Japan⁴

Instead of claiming increased initial depreciation (30 per cent of the acquisition cost), a corporation filing a blue tax return may elect to claim a tax credit equivalent to 7 per cent of the cost of acquiring machinery or equipment for efficient use of energy. The tax credit must not exceed 20 per cent of the corporation's tax liability. A small or medium-sized enterprise may also elect for a similar tax credit in respect of the cost of certain equipment, e.g., "mechatronics" machinery such as industrial robot and numerical control manufacturing machinery, which helps to make its operations highly developed. A corporation filing a blue return is entitled to certain tax privileges. In order to file such a return, approval of the Director of the District Office is needed. The books of the corporation must be maintained in accordance with the official requirements. A corporation permitted to file a blue return must maintain its books of accounts, financial statements and supporting documents for a period of 7 years from the date of filing. For this purpose, micro-films may be used if certain conditions are satisfied.

Kenya⁵

As an incentive to investment outside the municipal areas of Nairobi and Mombasa, an investment allowance is available on the cost of buildings and new machinery used for manufacturing purposes which are constructed or installed outside these areas. This allowance is given in addition to any other allowances including the normal depreciation allowance to which the investor might be entitled. This is to relieve these two cities from strains on infrastructure and also to provide job opportunities to other town centres. Among the changes announced by the Minister of Finance in his annual budget speech, June 1985, was an increase from 20 per cent to 50 per cent of the invest-

ment, effective 1 January, 1986.

To boost tourism, an investment deduction is also available in respect of hotel buildings.

Republic of Korea⁶

As an alternative to special depreciation available for key industries, a domestic corporation is entitled to obtain investment tax credit against corporation tax for investment in business assets as follows:

- (a) to commence a new business using such new technology as may be prescribed; or investment by December 31, 1983 in special equipment by way of facilities for increasing productivity, energy saving, anti-pollution, prevention of industrial hazards and mine-safety; 6 per cent (10 per cent in the case of an investment using domestically produced materials) of the amount invested in the business assets.
- (b) To operate in the machine or electronics industry: 3 per cent (5 per cent of the investments using domestically produced or manufactured materials) of the investment.

Temporary investment tax credit: When the Government considers it necessary to grant an investment tax credit in accordance with a change in the economic situation, temporary tax credit for investment equal to 5 per cent (10 per cent in the case of an investment using domestically produced or manufactured materials or machinery) of the investment amount is allowed.

Malaysia⁷

For an approved project undertaken by a company in expanding its existing business of manufacturing and processing, a reinvestment allowance of 25 per cent is available in respect of the capital expenditure incurred between January 1, 1979 and December 31, 1986 on (a) factory, (b) plant and machinery, or (c) other apparatus used in Malaysia. The dividends paid from the amount attributable to investment allowance are

exempt from tax.

Under the Investment Incentives Act, investment tax credit is available to a non-pioneer company which incurs a fixed capital expenditure on an approved project, which may not be less than 25 per cent of the expenditure. This credit is increased by an additional 5 per cent of the expenditure on satisfaction of each of the three specified conditions, viz., (a) "location in less developed areas", (b) "Malaysian content", i.e., a specified percentage of the value of the manufactured products coming from Malaysian raw materials and/or parts and components manufactured in Malaysia, excluding wages, salaries and the domestic inputs and (c) for manufacture of 'priority products'. Any manufactured products or class of products can be declared priority products from time to time. The amount of the company's adjusted income equal to the credit is exempt from tax. Dividends paid out of the exempted profits are also exempt in the hands of the shareholders.

New Zealand⁸

The following investment allowances for new plant and machinery first used in a taxpayer company's business were available until March 31, 1983:

- regional investment allowance
- export investment allowance
- high priority activity investment allowance
- fishing investment allowance.

Investment allowance is still available upto 40 per cent of the cost of new plant and machinery purchased or leased under a qualifying lease pursuant to an approved industry development plan. The expenditure must be incurred prior to the specified terminal date. The allowance is given in the year in which the plant or machinery is first used. It is not recoverable on sale of the asset unless the sale takes place within twelve months of the date of purchase.

United Kingdom⁹

The primary incentive in the business tax system until 1984 was that of accelerated depreciation allowance known as 'capi-

tal allowance', which were particularly generous. Expenditure on plant and machinery qualified for 100 per cent allowance in the first year. This acceleration element is being phased out. The first year allowance of 100 per cent for plant and machinery was reduced under the 1984 budget in three stages to nil by 1986 and replaced by an annual writing down allowance of 25 per cent on the reducing balance method.

One of the consequences of the pre-1984 very generous system of allowances for machinery and plant was rapid development of equipment leasing. Banks and other financial institutions with taxable profits, bought equipment and leased it out to "tax-exhausted" companies. The banks were able to claim the capital allowances, and were able to shelter their other income from tax. A substantial part of that benefit was passed on to the company lessees in the form of reduced lease rentals. Between 10 and 20 per cent of all investment in manufacturing industry was being financed through leasing. The phasing out of the accelerated allowance is expected to affect the leasing industry. With little or no incentive to pass on, leasing will have less advantage than previously over borrowed funds. In consequence, the banks will have to make reserves for the deferred tax charges which can be expected to fall due.

United States of America¹⁰

President Reagan had set an overhaul of the tax system as his top domestic goal for his second term. The signing of the Tax Reform Act of 1986 (HR 3838) into law by the President on October 22, 1986 climaxed years of work by both the administration and Congress beginning with the release in November, 1984 of the Treasury Department's blueprint of *Tax Reform for Fairness, Simplicity and Economic Growth*.

As against the existing corporate tax rates of 15-40 per cent on the first \$ 1,00,000 of income and 46 per cent thereafter, the new law reduces the corporate tax rates to 15-30 per cent upto \$ 75,000 and 34 per cent above \$ 75,000. Investment tax credit of 6-10 per cent for a tax payer's investment in machinery and plant is repealed retroactively from January 1, 1986. However, 82.5 per cent of the unused tax credits of the past due to smallness of profits may be used to offset taxes owed in 1987, and upto 65 per cent in later years. Currently, full amount of unus-

ed credits may be carried forward 15 years or back three. As to depreciation, the existing law provides recovery periods of 3-19 years with accelerated write-off. While retaining system of rapid write-offs similar to the existing law, the new law permits larger write-offs for most property, but over longer periods.

The Tax Reform Act of 1986 retains the 20 per cent corporate minimum tax but redesigns it to make it more difficult to combine various tax benefits known as preferences—so as to escape all, or nearly all tax liability.*

NOTE

- The heart of the new tax is its use of reported “book income” as a separate new test of taxability, in addition to a list of “preference” items given favourable treatment under regular provisions of the tax law that would be subject to the minimum tax. A two-level method of figuring the tax would be used. A company would, first, calculate its taxable income under existing law, including all the various deductions, exemptions and exclusions. Then, starting with taxable income, it would add these preferences back and make other adjustments, and from this calculate minimum taxable income. Next, it would compare this minimum taxable income total with book income, as reported to shareholders or a regulatory agency or a bank for purposes of obtaining a loan. If book income is more than the minimum taxable income, one-half of the difference would be added to the minimum taxable income and the tax would be calculated on this total amount at a 20 per cent rate. A few existing preferences would remain untouched, even with the use of the book-income concept. One of the largest is the expensing, or writing-off in one year, of research and development costs.

The book income basis for calculating the corporate minimum tax would remain in effect for three years, starting in 1987, after which the losses would shift to the “earnings and profits” concept.

REFERENCES TO APPENDIX III

1. International Bureau of Fiscal Documentation, Amsterdam. *Taxes and Investment in Asia and the Pacific*, Vol. I: Australia: pp. 109-112, Supplement Number 30, March, 1984 and Number 42, March 1986; CCH Australia Std., Sydney: *1986 Australian Master Tax Guide*, pp. 725-746.
2. *Canadian Tax Journal*, May-June, 1986, Vol. 34, No. 3, p. 569.
3. International Bureau of Fiscal Documentation (1986). *The Taxation of Companies in Europe*, Vol. 2: Germany—58-64: Supplement No. 66, April.
4. International Bureau of Fiscal Documentation, Amsterdam. *Taxes and Investment in Asia and the Pacific*, Volume 2: Japan: p. 106, Supplement No. 44, July, 1986; Tax Bureau, Ministry of Finance, Japan. *An Outline of Japanese Taxes*, 1985, pp. 62-63 and 100-101.
5. Commonwealth Association of Tax Administrators (CATA). *5th Technical Conference, September 1984, Country Paper: Kenya*, p. 3; International Bureau of Fiscal Documentation, Amsterdam; *African Tax Systems: Kenya: Supplement No. 58*, winter 1985; Supplement No. 59, spring 1986.
6. International Bureau of Fiscal Documentation. Amsterdam. *Taxes and Investment in Asia and the Pacific*, Vol. 2: Korea—85—Supplement No. 32, July 1984.
7. International Bureau of Fiscal Documentation, Amsterdam. *Taxes and Investment in Asia and the Pacific*; Vol. 2: Malaysia—169, 172-173: Original release July 1983 and Supplement No. 34, November, 1984.
8. International Bureau of Fiscal Documentation, Amsterdam. *Taxes and Investment in Asia and the Pacific*; Vol. 2; New Zealand—179: Supplement No. 33, September, 1984; Commonwealth Association of Tax Administrators (CATA). *5th Technical Conference: September 1984: Country Paper: New Zealand*: p. 19.
9. Commonwealth Association of Tax Administrators (CATA). *5th Technical Conference: September 1984: Country Paper: United Kingdom*: pp. 3-5, 11, 15-16.
10. *Congressional Quarterly: Weekly Report*: Vol 44, No. 40, October 4, 1986.

APPENDIX IV

MAIN FEATURES OF SECTION 32AB INCENTIVE PROVISION

(Para 7.1.2)

- (i) An assessee whose total income includes income chargeable to tax under the head “Profits and gains of business or profession” may out of such income utilise any amount during the previous year for purposes specified in the Investment Deposit Account Scheme, 1986 (IDAS '86) (for the business of growing and manufacturing tea in India, a similar scheme approved by the Tea Board) or deposit any amount for the said purposes with the Development Bank before the expiry of six months from the end of the previous year or before furnishing the return of his income, whichever is earlier. If he does this, he shall be allowed (except if he has claimed a deduction allowable under Section 33AB on tea development account) a deduction in computation of his total income of a sum equal to the aggregate of the amounts so utilised and/or deposited or a sum equal to 20 per cent of the profits of the “eligible business or profession” as per his audited accounts, whichever is less; the profits being computed in accordance with the requirements of the Companies Act, 1956 with an adjustment to provide only current year depreciation as per Section 32(1) of the Act. Every business or profession is an “eligible business or profession” except (a) construction, manufacture or production of the Eleventh Schedule goods (low priority items) by an industrial undertaking other than small-scale, and (b) the business of leasing or hiring of machinery or plant to such an undertaking¹. The

deposit account with the Development Bank shall carry simple interest at the rate of 10 per cent per annum. The depositor may make withdrawals therefrom for the specified purposes upto the limit of the minimum balance held for a year or close the account by withdrawing the entire amount held for a year.

- (ii) The purposes specified in IDAS '86 are: Purchase of new ship, aircraft, machinery or plant for the purposes of the business or profession carried on by the depositor; purchase of new computers for intallation in his office or other business premises; and repayment of the principal amount of term loans of three years or more contracted after March 31, 1986 with a financial corporation providing long-term finance for industrial development in India, a scheduled bank or any other such institution notified in this behalf.
- (iii) As for investment allowance, second-hand imported ships, aircraft, machinery or plant are to be deemed "new" for purposes of the new incentive.
- (iv) To the extent the amount withdrawn from the deposit account is not utilised for the specified purposes within the previous year of withdrawal, it shall be deemed to be the profit and gains of the business or profession and charged to income tax as the income of that previous year [S. 32AB (6)]. IDAS '86 lays down a time limit of 15 working days for such utilisation [IDAS '86, Clause 9(c)].
- (v) On sale or transfer otherwise, of an asset acquired in accordance with IDAS '86, before the expiry of eight years from the end of the previous year in which it was acquired, such part of the cost of the asset as is relatable to the deductions obtained on its account under section 32AB, shall be deemed to be the profits and gains of the business or profession of the year of sale or transfer and become chargeable to income-tax as the income of the year. This does not apply if the sale or transfer is to Government, a local authority, a statutory corporation, or a Government company or is in connection with the succession (satisfying the prescribed conditions) to a firm's business by a company and the scheme conti-

nues to apply to the company in the manner applicable to the firm.

- (vi) No deduction shall be allowed in respect of any amount utilised for the purchase of (a) any machinery or plant to be installed in any office premises or residential accommodation including a guest house; (b) any office appliances (not being computers); (c) any road transport vehicles; and (d) any machinery or plant, the whole of the actual cost of which is allowed as a deduction (whether by way of depreciation or otherwise) in computing the chargeable income from business or profession of any one previous year. It has been clarified that a “computer for this purpose, is not a plant or a machinery”, and hence, “in spite of any amount utilised for the purchase of a computer installed even in office premises deduction will be admissible”². The term ‘computers’ does not include calculating machines and calculation devices.
- (vii) A claim for deduction under this section has to be supported by an audit report in the prescribed form from an accountant along with a prescribed statement giving the requisite particulars.
- (viii) The deduction due under section 32AB is subject to the discipline of section 80VVA as was the case with investment allowance.
- (ix) If the Central Government considers it necessary or expedient, it is empowered to omit any article or thing from the Eleventh Schedule list. It is also open to the Central Government, after making such inquiry as it may think fit, to direct that the scheme shall not apply to any class of assessee from a notified date.

REFERENCES TO APPENDIX IV

1. The Eleventh Schedule: Appendix II, pp. 98-99 supra.
2. CBDT Circular No. 461 (F. No. 131/29/86-TPL dated 9-7-1986) 161 *ITR* 17 (St) para 17.6 (f.)